

**ARKANSAS CODE
OF 1987
ANNOTATED**

**2022-2023
ADVANCE
CODE
SERVICE**

Pamphlet Number 2
October 2022

Updates the 2021 Supplement

Prepared by the Editorial Staff
of the Publisher



LexisNexis

ARKANSAS CODE OF 1987 ANNOTATED



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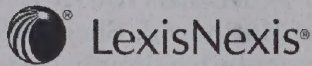
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ISBN 978-1-66330-732-3



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PREFACE

The 2022-2023 Advance Code Service keeps the Arkansas Code of 1987 Annotated as current as possible by providing notes to cases and law reviews, and updated table and index entries, as well as other pertinent information, in the interim period between the publication of Supplements to the Code. Each Advance Code Service pamphlet is cumulative and may be recycled or discarded upon receipt of the next pamphlet.

Material in the Advance Code Service follows the structure of the Arkansas Code of 1987 Annotated and should be used in conjunction with the Code and its 2021 Supplement.

This pamphlet contains updates for the legislation enacted by the General Assembly through the 2021 First Extraordinary Session, the 2021 Extended Session, the 2021 Second Extraordinary Session, the 2022 Fiscal Session, and the 2022 Third Extraordinary Session, except when those updates have been incorporated into 2021 and 2022 Replacement Volumes. Acts of the 2021 Extended Session with no emergency clause or specified effective date became effective on January 14, 2022. Acts of the 2021 Second Extraordinary Session with no emergency clause or specified effective date became effective on March 10, 2022.

Annotations to state court decisions are current through August 25, 2022. Annotations are to the following sources:

Arkansas Supreme Court and Arkansas Court of Appeals Opinions
Federal Supplement
Federal Reporter
United States Supreme Court Reports
Bankruptcy Reporter
Arkansas Law Notes
Arkansas Law Review
University of Arkansas at Little Rock Law Review
American Law Reports (ALR)

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SUBTITLE 3. CORPORATIONS AND ASSOCIATIONS

CHAPTER 32

SMALL BUSINESS ENTITY TAX PASS THROUGH ACT

[Repealed.]

A.C.R.C. Notes. Identical Acts 2021 (2nd Ex. Sess.), Nos. 7 and 12, § 1, provided: "Implementation of Uniform Limited Liability Company Act.

"(a) The General Assembly declares that:

"(1) Through inadvertence, Acts 2021, No. 1041, § 1, provided for the repeal of the Small Business Entity Tax Pass

Through Act, § 4-32-101 et seq., effective ninety (90) days after April 28, 2021, rather than providing for the repeal to become effective on September 1, 2021, to correspond with the effective date of the Uniform Limited Liability Company Act, § 4-38-101 et seq., enacted by Acts 2021, No. 1041, § 26, and the transition provisions provided therein;

"(2) It is the intent of this act to:

"(A) Treat the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., and all references contained in Acts 2021, No. 1041, to the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, as effective on September 1, 2021;

"(B) Provide for all purposes, including without limitation upon the books and records of the Secretary of State, the continued existence of all limited liability companies formed or registered to do business under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., and continuing to operate thereunder but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, until September 1, 2021, at which time all such limited liability companies will begin operating under the Uniform Limited Liability Company Act, § 4-38-101 et seq., except as otherwise provided by law;

"(C) Ratify all actions taken by a limited liability company that occurred after July 27, 2021, and before September 1, 2021, that would have been authorized or required under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., but for its repeal by Acts 2021, No. 1041, § 1; and

"(D) Require the Secretary of State to continue the registration and other filings of all limited liability companies formed or registered to do business and operating under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., that were not voluntarily or involuntarily dissolved before September 1, 2021, with no change in status except as provided by the Uniform Limited Liability Company Act, § 4-38-101 et seq., enacted by Acts 2021, No. 1041, § 26, or other applicable law;

"(3) A limited liability company formed or registered to do business before September 1, 2021, and not dissolved or terminated retains its status as a limited liability company without interruption until otherwise dissolved or terminated; and

"(4) Section 4-38-110 applies to a limited liability company formed or registered to do business before September 1, 2021, notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1.

"(b) The General Assembly ratifies, validates, confirms, approves, and cures the following that occurred after July 27, 2021, and before September 1, 2021:

"(1) Any act by a limited liability company that would have been authorized or required under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., but for its repeal by Acts 2021, No. 1041, § 1; and

"(2) In reference to a limited liability company, any action of a public or private individual or entity that would have been valid under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., but for its repeal by Acts 2021, No. 1041, § 1.

"(c) The General Assembly recognizes the validity, notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, of the following actions that may have occurred after July 27, 2021, and before September 1, 2021, by a limited liability company if the actions are otherwise valid:

"(1) Issuance of any bonds, notes, warrants, certificates, or other evidences of indebtedness;

"(2) Any action regarding a title to property;

"(3) Any cause of action or other legal claim or right arising from an action taken or a failure to act;

"(4) Creation and approval of any contracts, agreements, licenses, or other documents; and

"(5) Any transaction or other act entered into or performed by a limited liability company that would have been authorized or permitted under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., but for its repeal by Acts 2021, No. 1041, § 1.

"(d) The act or acts of a member or manager of a limited liability company that would have been protected against personal liability under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., but for its repeal by Acts 2021, No. 1041, § 1, shall be protected against personal liability to the same extent as provided by the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., had it not been repealed by Acts 2021, No. 1041, § 1.

"(e) The General Assembly declares that a limited liability company formed or

registered to do business before September 1, 2021, and otherwise in compliance with the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., on September 1, 2021, but for its repeal by Acts 2021, No. 1041, § 1, retains its status as a limited liability company without interruption until otherwise dissolved or terminated.

“(f)(1) This act is not intended to destroy or otherwise disturb any vested rights.

“(2) If a right is found by a court to be a vested right, the court shall uphold the vested right.”

Identical Acts 2021 (2nd Ex. Sess.), Nos. 7 and 12, § 4, provided:

“(a) A limited liability company that registered, filed, or took any action, including without limitation payment for an action or service, with the office of the Secretary of State after July 27, 2021, and before September 1, 2021, is not required to reregister, refile, or make further payment for the same action or service.

“(b) The Secretary of State shall continue the registration and other filings of all limited liability companies formed or registered to do business and existing under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., that were not voluntarily or involuntarily dissolved before September 1, 2021, with no change in status except as provided by the Uniform Limited Liability Company Act, § 4-38-101 et seq., enacted by Acts 2021, No. 1041, § 26, or other applicable law.”

Identical Acts 2021 (2nd Ex. Sess.), Nos. 7 and 12, § 5, provided: “Additional savings provisions.

“(a) It is the intent of this section to:

“(1) Provide for the transition and continuous operation and effect of additional provisions of Arkansas law related to limited liability companies and other business entities, whether or not specifically referenced in Acts 2021, No. 1041, including without limitation provisions affecting the operation and taxation aspects of limited liability companies and other business entities:

“(A) Under the Uniform Protected Series Act, § 4-37-101 et seq.; and

“(B) Concerning the authorized and unauthorized use of business names; and

“(2) Ratify, validate, confirm, approve, and cure any actions under a codified or

uncodified provision described in this section.

“(b) For the period of time after July 27, 2021, and before September 1, 2021, with respect to Acts 2021, No. 1041, §§ 2-25, 27-30, 32, 34, and 36, concerning various definitions and transition provisions from the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., to the Uniform Limited Liability Company Act, § 4-38-101 et seq., the stricken words ‘Small Business Entity Tax Pass Through Act, § 4-38-101 et seq.’ and all stricken provisions of the Small Business Entity Tax Pass Through Act, § 4-38-101 et seq., shall be treated as unstricken and operative and the underlined words ‘Uniform Limited Liability Company Act, § 4-38-101 et seq.’ and all underlined provisions of the Uniform Limited Liability Company Act, § 4-38-101 et seq. shall be treated as stricken and inoperative.

“(c) Any action or obligation of any public or private individual or entity that occurred under the following sections after July 27, 2021, and before September 1, 2021, that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, approved, and cured notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1:

“(1) Section 4-37-102(8), amended by Acts 2021, No. 1041, § 2;

“(2) Section 4-37-102(12), amended by Acts 2021, No. 1041, § 3;

“(3) Section 4-37-102(13), amended by Acts 2021, No. 1041, § 4;

“(4) Section 4-37-102(14), amended by Acts 2021, No. 1041, § 5;

“(5) Section 4-37-102(20), amended by Acts 2021, No. 1041, § 6;

“(6) Section 4-37-106, amended by Acts 2021, No. 1041, § 7;

“(7) Section 4-37-107(a)(4), amended by Acts 2021, No. 1041, § 8;

“(8) Section 4-37-108, amended by Acts 2021, No. 1041, § 9;

“(9) Section 4-37-201(c), amended by Acts 2021, No. 1041, § 10;

“(10) Section 4-37-201(d), amended by Acts 2021, No. 1041, § 11;

“(11) Section 4-37-202, amended by Acts 2021, No. 1041, § 12;

"(12) Section 4-37-204(a)(3), amended by Acts 2021, No. 1041, § 13;

"(13) Section 4-37-304(f), amended by Acts 2021, No. 1041, § 14;

"(14) Section 4-37-304(g), amended by Acts 2021, No. 1041, § 15;

"(15) Section 4-37-305, amended by Acts 2021, No. 1041, § 16;

"(16) Section 4-37-403, amended by Acts 2021, No. 1041, § 17;

"(17) Section 4-37-502, amended by Acts 2021, No. 1041, § 18;

"(18) Section 4-37-503, amended by Acts 2021, No. 1041, § 19;

"(19) Section 4-37-604, amended by Acts 2021, No. 1041, § 20;

"(20) Section 4-37-605(1), amended by Acts 2021, No. 1041, § 21;

"(21) Section 4-37-606(1), amended by Acts 2021, No. 1041, § 22;

"(22) Section 4-37-607, amended by Acts 2021, No. 1041, § 23;

"(23) Section 4-37-703(c), amended by Acts 2021, No. 1041, § 24;

"(24) Section 4-37-703(d), amended by Acts 2021, No. 1041, § 25;

"(25) Section 4-42-707(b), amended by Acts 2021, No. 1041, § 27;

"(26) Section 4-47-905(a), amended by Acts 2021, No. 1041, § 28;

"(27) Section 4-70-201(c), amended by Acts 2021, No. 1041, § 29;

"(28) Section 15-4-1215(b), amended by Acts 2021, No. 1041, § 30;

"(29) Section 26-18-303(b)(14)(B), amended by Acts 2021, No. 1041, § 32;

"(30) Section 26-54-104(8), amended by Acts 2021, No. 1041, § 34; and

"(31) Section 26-54-105(h)(2), amended by Acts 2021, No. 1041, § 36.

"(d) Before September 1, 2021, to the extent any codified or uncoded provision of Arkansas law is derived from or depends upon any provision of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., for its meaning or operation:

"(1) The provisions of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., shall be treated as remaining in full force and effect solely for the limited purpose of supplying the requisite meaning or operation to the codified or uncoded provision; and

"(2) Any action or obligation of any public or private individual or entity that occurred after July 27, 2021, and before September 1, 2021, under a codified or uncoded provision of Arkansas law that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, approved, and cured notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1."

CHAPTER 37

UNIFORM PROTECTED SERIES ACT

A.C.R.C. Notes. Identical Acts 2021 (2nd Ex. Sess.), Nos. 7 and 12, § 5, provided: "Additional savings provisions.

"(a) It is the intent of this section to:

"(1) Provide for the transition and continuous operation and effect of additional provisions of Arkansas law related to limited liability companies and other business entities, whether or not specifically referenced in Acts 2021, No. 1041, including without limitation provisions affecting the operation and taxation aspects of limited liability companies and other business entities:

"(A) Under the Uniform Protected Series Act, § 4-37-101 et seq.; and

"(B) Concerning the authorized and unauthorized use of business names; and

"(2) Ratify, validate, confirm, approve, and cure any actions under a codified or uncoded provision described in this section.

"(b) For the period of time after July 27, 2021, and before September 1, 2021, with respect to Acts 2021, No. 1041, §§ 2-25, 27-30, 32, 34, and 36, concerning various definitions and transition provisions from the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., to the Uniform Limited Liability Company Act, § 4-38-101 et seq., the stricken words 'Small Business Entity Tax Pass Through Act, § 4-38-101 et seq.', and all stricken provisions of the Small Business Entity Tax Pass Through Act, § 4-38-101 et seq., shall be treated as unstricken and opera-

tive and the underlined words ‘Uniform Limited Liability Company Act, § 4-38-101 et seq.’ and all underlined provisions of the Uniform Limited Liability Company Act, § 4-38-101 et seq. shall be treated as stricken and inoperative.

“(c) Any action or obligation of any public or private individual or entity that occurred under the following sections after July 27, 2021, and before September 1, 2021, that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, approved, and cured notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1:

“(1) Section 4-37-102(8), amended by Acts 2021, No. 1041, § 2;

“(2) Section 4-37-102(12), amended by Acts 2021, No. 1041, § 3;

“(3) Section 4-37-102(13), amended by Acts 2021, No. 1041, § 4;

“(4) Section 4-37-102(14), amended by Acts 2021, No. 1041, § 5;

“(5) Section 4-37-102(20), amended by Acts 2021, No. 1041, § 6;

“(6) Section 4-37-106, amended by Acts 2021, No. 1041, § 7;

“(7) Section 4-37-107(a)(4), amended by Acts 2021, No. 1041, § 8;

“(8) Section 4-37-108, amended by Acts 2021, No. 1041, § 9;

“(9) Section 4-37-201(c), amended by Acts 2021, No. 1041, § 10;

“(10) Section 4-37-201(d), amended by Acts 2021, No. 1041, § 11;

“(11) Section 4-37-202, amended by Acts 2021, No. 1041, § 12;

“(12) Section 4-37-204(a)(3), amended by Acts 2021, No. 1041, § 13;

“(13) Section 4-37-304(f), amended by Acts 2021, No. 1041, § 14;

“(14) Section 4-37-304(g), amended by Acts 2021, No. 1041, § 15;

“(15) Section 4-37-305, amended by Acts 2021, No. 1041, § 16;

“(16) Section 4-37-403, amended by Acts 2021, No. 1041, § 17;

“(17) Section 4-37-502, amended by Acts 2021, No. 1041, § 18;

“(18) Section 4-37-503, amended by Acts 2021, No. 1041, § 19;

“(19) Section 4-37-604, amended by Acts 2021, No. 1041, § 20;

“(20) Section 4-37-605(1), amended by Acts 2021, No. 1041, § 21;

“(21) Section 4-37-606(1), amended by Acts 2021, No. 1041, § 22;

“(22) Section 4-37-607, amended by Acts 2021, No. 1041, § 23;

“(23) Section 4-37-703(c), amended by Acts 2021, No. 1041, § 24;

“(24) Section 4-37-703(d), amended by Acts 2021, No. 1041, § 25;

“(25) Section 4-42-707(b), amended by Acts 2021, No. 1041, § 27;

“(26) Section 4-47-905(a), amended by Acts 2021, No. 1041, § 28;

“(27) Section 4-70-201(c), amended by Acts 2021, No. 1041, § 29;

“(28) Section 15-4-1215(b), amended by Acts 2021, No. 1041, § 30;

“(29) Section 26-18-303(b)(14)(B), amended by Acts 2021, No. 1041, § 32;

“(30) Section 26-54-104(8), amended by Acts 2021, No. 1041, § 34; and

“(31) Section 26-54-105(h)(2), amended by Acts 2021, No. 1041, § 36.

“(d) Before September 1, 2021, to the extent any codified or uncoded provision of Arkansas law is derived from or depends upon any provision of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., for its meaning or operation:

“(1) The provisions of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., shall be treated as remaining in full force and effect solely for the limited purpose of supplying the requisite meaning or operation to the codified or uncoded provision; and

“(2) Any action or obligation of any public or private individual or entity that occurred after July 27, 2021, and before September 1, 2021, under a codified or uncoded provision of Arkansas law that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, approved, and cured notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1.”

CHAPTER 38

UNIFORM LIMITED LIABILITY COMPANY ACT

SUBCHAPTER.

1. GENERAL PROVISIONS.
12. PROFESSIONAL LIMITED LIABILITY COMPANIES.

A.C.R.C. Notes. Identical Acts 2021 (2nd Ex. Sess.), Nos. 7 and 12, § 1, provided: "Implementation of Uniform Limited Liability Company Act.

"(a) The General Assembly declares that:

"(1) Through inadvertence, Acts 2021, No. 1041, § 1, provided for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., effective ninety (90) days after April 28, 2021, rather than providing for the repeal to become effective on September 1, 2021, to correspond with the effective date of the Uniform Limited Liability Company Act, § 4-38-101 et seq., enacted by Acts 2021, No. 1041, § 26, and the transition provisions provided therein;

"(2) It is the intent of this act to:

"(A) Treat the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., and all references contained in Acts 2021, No. 1041, to the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, as effective on September 1, 2021;

"(B) Provide for all purposes, including without limitation upon the books and records of the Secretary of State, the continued existence of all limited liability companies formed or registered to do business under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., and continuing to operate thereunder but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, until September 1, 2021, at which time all such limited liability companies will begin operating under the Uniform Limited Liability Company Act, § 4-38-101 et seq., except as otherwise provided by law;

"(C) Ratify all actions taken by a limited liability company that occurred after July 27, 2021, and before September 1, 2021, that would have been authorized or required under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq.,

but for its repeal by Acts 2021, No. 1041, § 1; and

"(D) Require the Secretary of State to continue the registration and other filings of all limited liability companies formed or registered to do business and operating under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., that were not voluntarily or involuntarily dissolved before September 1, 2021, with no change in status except as provided by the Uniform Limited Liability Company Act, § 4-38-101 et seq., enacted by Acts 2021, No. 1041, § 26, or other applicable law;

"(3) A limited liability company formed or registered to do business before September 1, 2021, and not dissolved or terminated retains its status as a limited liability company without interruption until otherwise dissolved or terminated; and

"(4) Section 4-38-110 applies to a limited liability company formed or registered to do business before September 1, 2021, notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1.

"(b) The General Assembly ratifies, validates, confirms, approves, and cures the following that occurred after July 27, 2021, and before September 1, 2021:

"(1) Any act by a limited liability company that would have been authorized or required under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., but for its repeal by Acts 2021, No. 1041, § 1; and

"(2) In reference to a limited liability company, any action of a public or private individual or entity that would have been valid under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., but for its repeal by Acts 2021, No. 1041, § 1.

"(c) The General Assembly recognizes the validity, notwithstanding the repeal of the Small Business Entity Tax Pass

Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, of the following actions that may have occurred after July 27, 2021, and before September 1, 2021, by a limited liability company if the actions are otherwise valid:

“(1) Issuance of any bonds, notes, warrants, certificates, or other evidences of indebtedness;

“(2) Any action regarding a title to property;

“(3) Any cause of action or other legal claim or right arising from an action taken or a failure to act;

“(4) Creation and approval of any contracts, agreements, licenses, or other documents; and

“(5) Any transaction or other act entered into or performed by a limited liability company that would have been authorized or permitted under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., but for its repeal by Acts 2021, No. 1041, § 1.

“(d) The act or acts of a member or manager of a limited liability company that would have been protected against personal liability under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., but for its repeal by Acts 2021, No. 1041, § 1, shall be protected against personal liability to the same extent as provided by the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., had it not been repealed by Acts 2021, No. 1041, § 1.

“(e) The General Assembly declares that a limited liability company formed or registered to do business before September 1, 2021, and otherwise in compliance with the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., on September 1, 2021, but for its repeal by Acts 2021, No. 1041, § 1, retains its status as a limited liability company without interruption until otherwise dissolved or terminated.

“(f)(1) This act is not intended to destroy or otherwise disturb any vested rights.

“(2) If a right is found by a court to be a vested right, the court shall uphold the vested right.”

Identical Acts 2021 (2nd Ex. Sess.), Nos. 7 and 12, § 4, provided:

“(a) A limited liability company that registered, filed, or took any action, including without limitation payment for an

action or service, with the office of the Secretary of State after July 27, 2021, and before September 1, 2021, is not required to reregister, refile, or make further payment for the same action or service.

“(b) The Secretary of State shall continue the registration and other filings of all limited liability companies formed or registered to do business and existing under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., that were not voluntarily or involuntarily dissolved before September 1, 2021, with no change in status except as provided by the Uniform Limited Liability Company Act, § 4-38-101 et seq., enacted by Acts 2021, No. 1041, § 26, or other applicable law.”

Identical Acts 2021 (2nd Ex. Sess.), Nos. 7 and 12, § 5, provided: “Additional savings provisions.

“(a) It is the intent of this section to:

“(1) Provide for the transition and continuous operation and effect of additional provisions of Arkansas law related to limited liability companies and other business entities, whether or not specifically referenced in Acts 2021, No. 1041, including without limitation provisions affecting the operation and taxation aspects of limited liability companies and other business entities:

“(A) Under the Uniform Protected Series Act, § 4-37-101 et seq.; and

“(B) Concerning the authorized and unauthorized use of business names; and

“(2) Ratify, validate, confirm, approve, and cure any actions under a codified or uncoded provision described in this section.

“(b) For the period of time after July 27, 2021, and before September 1, 2021, with respect to Acts 2021, No. 1041, §§ 2-25, 27-30, 32, 34, and 36, concerning various definitions and transition provisions from the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., to the Uniform Limited Liability Company Act, § 4-38-101 et seq., the stricken words ‘Small Business Entity Tax Pass Through Act, § 4-38-101 et seq.’ and all stricken provisions of the Small Business Entity Tax Pass Through Act, § 4-38-101 et seq., shall be treated as unstricken and operative and the underlined words ‘Uniform Limited Liability Company Act, § 4-38-101 et seq.’ and all underlined provisions of the Uniform Limited Liability Com-

pany Act, § 4-38-101 et seq. shall be treated as stricken and inoperative.

“(c) Any action or obligation of any public or private individual or entity that occurred under the following sections after July 27, 2021, and before September 1, 2021, that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, approved, and cured notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1:

“(1) Section 4-37-102(8), amended by Acts 2021, No. 1041, § 2;

“(2) Section 4-37-102(12), amended by Acts 2021, No. 1041, § 3;

“(3) Section 4-37-102(13), amended by Acts 2021, No. 1041, § 4;

“(4) Section 4-37-102(14), amended by Acts 2021, No. 1041, § 5;

“(5) Section 4-37-102(20), amended by Acts 2021, No. 1041, § 6;

“(6) Section 4-37-106, amended by Acts 2021, No. 1041, § 7;

“(7) Section 4-37-107(a)(4), amended by Acts 2021, No. 1041, § 8;

“(8) Section 4-37-108, amended by Acts 2021, No. 1041, § 9;

“(9) Section 4-37-201(c), amended by Acts 2021, No. 1041, § 10;

“(10) Section 4-37-201(d), amended by Acts 2021, No. 1041, § 11;

“(11) Section 4-37-202, amended by Acts 2021, No. 1041, § 12;

“(12) Section 4-37-204(a)(3), amended by Acts 2021, No. 1041, § 13;

“(13) Section 4-37-304(f), amended by Acts 2021, No. 1041, § 14;

“(14) Section 4-37-304(g), amended by Acts 2021, No. 1041, § 15;

“(15) Section 4-37-305, amended by Acts 2021, No. 1041, § 16;

“(16) Section 4-37-403, amended by Acts 2021, No. 1041, § 17;

“(17) Section 4-37-502, amended by Acts 2021, No. 1041, § 18;

“(18) Section 4-37-503, amended by Acts 2021, No. 1041, § 19;

“(19) Section 4-37-604, amended by Acts 2021, No. 1041, § 20;

“(20) Section 4-37-605(1), amended by Acts 2021, No. 1041, § 21;

“(21) Section 4-37-606(1), amended by Acts 2021, No. 1041, § 22;

“(22) Section 4-37-607, amended by Acts 2021, No. 1041, § 23;

“(23) Section 4-37-703(c), amended by Acts 2021, No. 1041, § 24;

“(24) Section 4-37-703(d), amended by Acts 2021, No. 1041, § 25;

“(25) Section 4-42-707(b), amended by Acts 2021, No. 1041, § 27;

“(26) Section 4-47-905(a), amended by Acts 2021, No. 1041, § 28;

“(27) Section 4-70-201(c), amended by Acts 2021, No. 1041, § 29;

“(28) Section 15-4-1215(b), amended by Acts 2021, No. 1041, § 30;

“(29) Section 26-18-303(b)(14)(B), amended by Acts 2021, No. 1041, § 32;

“(30) Section 26-54-104(8), amended by Acts 2021, No. 1041, § 34; and

“(31) Section 26-54-105(h)(2), amended by Acts 2021, No. 1041, § 36.

“(d) Before September 1, 2021, to the extent any codified or uncoded provision of Arkansas law is derived from or depends upon any provision of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., for its meaning or operation:

“(1) The provisions of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., shall be treated as remaining in full force and effect solely for the limited purpose of supplying the requisite meaning or operation to the codified or uncoded provision; and

“(2) Any action or obligation of any public or private individual or entity that occurred after July 27, 2021, and before September 1, 2021, under a codified or uncoded provision of Arkansas law that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, approved, and cured notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1.”

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

4-38-110. Application to existing relationships.

Effective Dates. Identical Acts 2021 (2nd Ex. Sess.), Nos. 7 and 12, § 6; Dec. 9, 2021. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the transition, implementation, and deadlines required under Acts 2021, No. 1041, require further legislative clarification to preserve the public peace, health, and safety; that without legislative clarification the impact of the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, could negatively impact the public peace, health, and safety by affecting the actions, operations, and legal rights and duties of limited liability companies that were formed or registered to do business before September 1, 2021; and that this act is immediately necessary to clarify the effectiveness and application of the law to

both existing limited liability companies and newly formed limited liability companies, registered to do business, or revised after July 27, 2021, and before September 1, 2021, to avoid any unnecessary financial uncertainty and to protect the business health of the state by ensuring the efficient, orderly, and valid conduct of business in the state. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

4-38-110. Application to existing relationships.

(a) This chapter governs:

(1) a limited liability company formed or registered to do business on or after September 1, 2021; and

(2) a limited liability company formed or registered to do business before September 1, 2021, by operation of law.

(b) Except as otherwise provided in subsection (c), on and after September 1, 2021, this chapter governs all limited liability companies.

(c) For purposes of applying this chapter to a limited liability company formed or registered to do business before September 1, 2021:

(1) the company's articles of organization are deemed to be the company's certificate of organization; and

(2) for purposes of applying § 4-38-102(10) and subject to § 4-38-107(d), language in the company's articles of organization designating the company's management structure operates as if that language were in the operating agreement.

History. Acts 2021, No. 1041, § 26; 2021 (2nd Ex. Sess.), No. 7, § 2; 2021 (2nd Ex. Sess.), No. 12, § 2.

A.C.R.C. Notes. Identical Acts 2021 (2nd Ex. Sess.), Nos. 7 and 12, § 1, provided: "Implementation of Uniform Lim-

ited Liability Company Act.

“(a) The General Assembly declares that:

“(1) Through inadvertence, Acts 2021, No. 1041, § 1, provided for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., effective ninety (90) days after April 28, 2021, rather than providing for the repeal to become effective on September 1, 2021, to correspond with the effective date of the Uniform Limited Liability Company Act, § 4-38-101 et seq., enacted by Acts 2021, No. 1041, § 26, and the transition provisions provided therein;

“(2) It is the intent of this act to:

“(A) Treat the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., and all references contained in Acts 2021, No. 1041, to the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, as effective on September 1, 2021;

“(B) Provide for all purposes, including without limitation upon the books and records of the Secretary of State, the continued existence of all limited liability companies formed or registered to do business under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., and continuing to operate thereunder but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, until September 1, 2021, at which time all such limited liability companies will begin operating under the Uniform Limited Liability Company Act, § 4-38-101 et seq., except as otherwise provided by law;

“(C) Ratify all actions taken by a limited liability company that occurred after July 27, 2021, and before September 1, 2021, that would have been authorized or required under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., but for its repeal by Acts 2021, No. 1041, § 1; and

“(D) Require the Secretary of State to continue the registration and other filings of all limited liability companies formed or registered to do business and operating under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., that were not voluntarily or involuntarily dissolved before September 1, 2021, with no change in status except as provided by the Uniform Limited Liability Company Act, § 4-

38-101 et seq., enacted by Acts 2021, No. 1041, § 26, or other applicable law;

“(3) A limited liability company formed or registered to do business before September 1, 2021, and not dissolved or terminated retains its status as a limited liability company without interruption until otherwise dissolved or terminated; and

“(4) Section 4-38-110 applies to a limited liability company formed or registered to do business before September 1, 2021, notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1.

“(b) The General Assembly ratifies, validates, confirms, approves, and cures the following that occurred after July 27, 2021, and before September 1, 2021:

“(1) Any act by a limited liability company that would have been authorized or required under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., but for its repeal by Acts 2021, No. 1041, § 1; and

“(2) In reference to a limited liability company, any action of a public or private individual or entity that would have been valid under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., but for its repeal by Acts 2021, No. 1041, § 1.

“(c) The General Assembly recognizes the validity, notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, of the following actions that may have occurred after July 27, 2021, and before September 1, 2021, by a limited liability company if the actions are otherwise valid:

“(1) Issuance of any bonds, notes, warrants, certificates, or other evidences of indebtedness;

“(2) Any action regarding a title to property;

“(3) Any cause of action or other legal claim or right arising from an action taken or a failure to act;

“(4) Creation and approval of any contracts, agreements, licenses, or other documents; and

“(5) Any transaction or other act entered into or performed by a limited liability company that would have been authorized or permitted under the Small Business Entity Tax Pass Through Act,

§ 4-32-101 et seq., but for its repeal by Acts 2021, No. 1041, § 1.

“(d) The act or acts of a member or manager of a limited liability company that would have been protected against personal liability under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., but for its repeal by Acts 2021, No. 1041, § 1, shall be protected against personal liability to the same extent as provided by the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., had it not been repealed by Acts 2021, No. 1041, § 1.

“(e) The General Assembly declares that a limited liability company formed or registered to do business before September 1, 2021, and otherwise in compliance with the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., on September 1, 2021, but for its repeal by Acts 2021, No. 1041, § 1, retains its status as a limited liability company without interruption until otherwise dissolved or terminated.

“(f)(1) This act is not intended to destroy or otherwise disturb any vested rights.

“(2) If a right is found by a court to be a vested right, the court shall uphold the vested right.”

Identical Acts 2021 (2nd Ex. Sess.), Nos. 7 and 12, § 4, provided:

“(a) A limited liability company that registered, filed, or took any action, including without limitation payment for an action or service, with the office of the Secretary of State after July 27, 2021, and before September 1, 2021, is not required to reregister, refile, or make further payment for the same action or service.

“(b) The Secretary of State shall continue the registration and other filings of all limited liability companies formed or registered to do business and existing under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., that were not voluntarily or involuntarily dissolved before September 1, 2021, with no change in status except as provided by the Uniform Limited Liability Company Act, § 4-38-101 et seq., enacted by Acts 2021, No. 1041, § 26, or other applicable law.”

Identical Acts 2021 (2nd Ex. Sess.), Nos. 7 and 12, § 5, provided: “Additional savings provisions.

“(a) It is the intent of this section to:

“(1) Provide for the transition and continuous operation and effect of additional provisions of Arkansas law related to limited liability companies and other business entities, whether or not specifically referenced in Acts 2021, No. 1041, including without limitation provisions affecting the operation and taxation aspects of limited liability companies and other business entities:

“(A) Under the Uniform Protected Series Act, § 4-37-101 et seq.; and

“(B) Concerning the authorized and unauthorized use of business names; and

“(2) Ratify, validate, confirm, approve, and cure any actions under a codified or uncoded provision described in this section.

“(b) For the period of time after July 27, 2021, and before September 1, 2021, with respect to Acts 2021, No. 1041, §§ 2-25, 27-30, 32, 34, and 36, concerning various definitions and transition provisions from the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., to the Uniform Limited Liability Company Act, § 4-38-101 et seq., the stricken words ‘Small Business Entity Tax Pass Through Act, § 4-38-101 et seq.’, and all stricken provisions of the Small Business Entity Tax Pass Through Act, § 4-38-101 et seq., shall be treated as unstricken and operative and the underlined words ‘Uniform Limited Liability Company Act, § 4-38-101 et seq.’ and all underlined provisions of the Uniform Limited Liability Company Act, § 4-38-101 et seq. shall be treated as stricken and inoperative.

“(c) Any action or obligation of any public or private individual or entity that occurred under the following sections after July 27, 2021, and before September 1, 2021, that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, approved, and cured notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1:

“(1) Section 4-37-102(8), amended by Acts 2021, No. 1041, § 2;

“(2) Section 4-37-102(12), amended by Acts 2021, No. 1041, § 3;

“(3) Section 4-37-102(13), amended by Acts 2021, No. 1041, § 4;

"(4) Section 4-37-102(14), amended by Acts 2021, No. 1041, § 5;

"(5) Section 4-37-102(20), amended by Acts 2021, No. 1041, § 6;

"(6) Section 4-37-106, amended by Acts 2021, No. 1041, § 7;

"(7) Section 4-37-107(a)(4), amended by Acts 2021, No. 1041, § 8;

"(8) Section 4-37-108, amended by Acts 2021, No. 1041, § 9;

"(9) Section 4-37-201(c), amended by Acts 2021, No. 1041, § 10;

"(10) Section 4-37-201(d), amended by Acts 2021, No. 1041, § 11;

"(11) Section 4-37-202, amended by Acts 2021, No. 1041, § 12;

"(12) Section 4-37-204(a)(3), amended by Acts 2021, No. 1041, § 13;

"(13) Section 4-37-304(f), amended by Acts 2021, No. 1041, § 14;

"(14) Section 4-37-304(g), amended by Acts 2021, No. 1041, § 15;

"(15) Section 4-37-305, amended by Acts 2021, No. 1041, § 16;

"(16) Section 4-37-403, amended by Acts 2021, No. 1041, § 17;

"(17) Section 4-37-502, amended by Acts 2021, No. 1041, § 18;

"(18) Section 4-37-503, amended by Acts 2021, No. 1041, § 19;

"(19) Section 4-37-604, amended by Acts 2021, No. 1041, § 20;

"(20) Section 4-37-605(1), amended by Acts 2021, No. 1041, § 21;

"(21) Section 4-37-606(1), amended by Acts 2021, No. 1041, § 22;

"(22) Section 4-37-607, amended by Acts 2021, No. 1041, § 23;

"(23) Section 4-37-703(c), amended by Acts 2021, No. 1041, § 24;

"(24) Section 4-37-703(d), amended by Acts 2021, No. 1041, § 25;

"(25) Section 4-42-707(b), amended by Acts 2021, No. 1041, § 27;

"(26) Section 4-47-905(a), amended by Acts 2021, No. 1041, § 28;

"(27) Section 4-70-201(c), amended by Acts 2021, No. 1041, § 29;

"(28) Section 15-4-1215(b), amended by Acts 2021, No. 1041, § 30;

"(29) Section 26-18-303(b)(14)(B), amended by Acts 2021, No. 1041, § 32;

"(30) Section 26-54-104(8), amended by Acts 2021, No. 1041, § 34; and

"(31) Section 26-54-105(h)(2), amended by Acts 2021, No. 1041, § 36.

"(d) Before September 1, 2021, to the extent any codified or uncoded provision of Arkansas law is derived from or depends upon any provision of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., for its meaning or operation:

"(1) The provisions of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., shall be treated as remaining in full force and effect solely for the limited purpose of supplying the requisite meaning or operation to the codified or uncoded provision; and

"(2) Any action or obligation of any public or private individual or entity that occurred after July 27, 2021, and before September 1, 2021, under a codified or uncoded provision of Arkansas law that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, approved, and cured notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1."

Amendments. The 2021 (2nd Ex. Sess.) amendment by identical acts Nos. 7 and 12, in the introductory language of (a), deleted "Before September 1, 2021" at the beginning and "only" from the end; inserted "or registered to do business" in (a)(1) and the introductory language of (c); and rewrote (a)(2).

SUBCHAPTER 12 — PROFESSIONAL LIMITED LIABILITY COMPANIES

SECTION.

4-38-1201. Applicability — Definition.

4-38-1202. Certification of registration.

SECTION.

4-38-1203. Name — Professional limited liability company.

Effective Dates. Identical Acts 2021 (2nd Ex. Sess.), Nos. 7 and 12, § 6: Dec. 9,

2021. Emergency clause provided: "It is found and determined by the General As-

sembly of the State of Arkansas that the transition, implementation, and deadlines required under Acts 2021, No. 1041, require further legislative clarification to preserve the public peace, health, and safety; that without legislative clarification the impact of the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, could negatively impact the public peace, health, and safety by affecting the actions, operations, and legal rights and duties of limited liability companies that were formed or registered to do business before September 1, 2021; and that this act is immediately necessary to clarify the effectiveness and application of the law to both existing limited liability companies and newly formed limited liability compa-

nies, registered to do business, or revised after July 27, 2021, and before September 1, 2021, to avoid any unnecessary financial uncertainty and to protect the business health of the state by ensuring the efficient, orderly, and valid conduct of business in the state. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

4-38-1201. Applicability — Definition.

(a) As used in this subchapter, "professional service" means a service that may be legally performed under a license or other legally mandated personal authorization, including without limitation services rendered by certified public accountants, architects, engineers, dentists, physicians, and attorneys at law.

(b) This subchapter applies only to a limited liability company that provides a professional service.

History. Acts 2021 (2nd Ex. Sess.), No. 7, § 3; 2021 (2nd Ex. Sess.), No. 12, § 3. **A.C.R.C. Notes.** Former § 4-38-1201 has been renumbered by identical Acts 2021 (2nd Ex. Sess.), Nos. 7 and 12, § 3 as § 4-38-1202.

4-38-1202. Certification of registration.

(a) A limited liability company formed under this chapter and that will engage in the practice of medicine must obtain a certificate of registration from the Arkansas State Medical Board and must comply with the statutes of the Medical Corporation Act, § 4-29-301 et seq.

(b) A limited liability company formed under this chapter and that will engage in the practice of dentistry must obtain a certificate of registration and comply with the statutes in the Dental Corporation Act, § 4-29-401 et seq.

(c)(1) An applicant seeking to register a limited liability company under this chapter shall obtain the necessary authorization required by its licensing authority to:

(A) register as a professional limited liability company under this chapter; and

(B) use the name proposed by the applicant for registration with the Secretary of State.

(2) The Secretary of State may require satisfactory proof of compliance with this section before registration.

History. Acts 2021, No. 1041, § 26; 2021 (2nd Ex. Sess.), No. 7, § 3; 2021 (2nd Ex. Sess.), No. 12, § 3.

A.C.R.C. Notes. This section was formerly codified as § 4-38-1201.

Former § 4-38-1202 has been renu-

bered by identical Acts 2021 (2nd Ex. Sess.), Nos. 7 and 12, § 3 as § 4-38-1203.

Amendments. The 2021 (2nd Ex. Sess.) amendment by identical acts Nos. 7 and 12 added (c).

4-38-1203. Name — Professional limited liability company.

(a) The name of a limited liability company which performs a professional service shall contain the words “Professional Limited Liability Company” or “Professional Limited Company” or the abbreviations “P.L.L.C.”, “P.L.C.”, “PLLC”, “PLC”, and the words “Limited” and “Company” may be abbreviated as “Ltd.” or “Co.” and may not contain the name of any person who is not a member, except that the name of a former member or member of a predecessor organization may continue to be included in the name.

(b) A limited liability company formed under this chapter shall have only one corporate suffix, as allowed by subsection (a).

History. Acts 2021, No. 1041, § 26; 2021 (2nd Ex. Sess.), No. 7, § 3; 2021 (2nd Ex. Sess.), No. 12, § 3.

A.C.R.C. Notes. This section was formerly codified as § 4-38-1202.

Amendments. The 2021 (2nd Ex.

Sess.) amendment by identical acts Nos. 7 and 12 substituted “Professional” for “Medical or dental” in the section heading; deleted “including medical, dental, and professional companies” preceding “shall have” in (b); and made a stylistic change.

SUBTITLE 4. PARTNERSHIPS

CHAPTER 42

UNIFORM PARTNERSHIP ACT

SUBCHAPTER 7 — MISCELLANEOUS PROVISIONS

4-42-707. Use of fictitious names.

A.C.R.C. Notes. Identical Acts 2021 (2nd Ex. Sess.), Nos. 7 and 12, § 5, provided: “Additional savings provisions.

“(a) It is the intent of this section to:

“(1) Provide for the transition and continuous operation and effect of additional provisions of Arkansas law related to limited liability companies and other business entities, whether or not specifically referenced in Acts 2021, No. 1041, including without limitation provisions affecting the operation and taxation aspects of lim-

ited liability companies and other business entities:

“(A) Under the Uniform Protected Series Act, § 4-37-101 et seq.; and

“(B) Concerning the authorized and unauthorized use of business names; and

“(2) Ratify, validate, confirm, approve, and cure any actions under a codified or uncoded provision described in this section.

“(b) For the period of time after July 27, 2021, and before September 1, 2021, with

respect to Acts 2021, No. 1041, §§ 2-25, 27-30, 32, 34, and 36, concerning various definitions and transition provisions from the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., to the Uniform Limited Liability Company Act, § 4-38-101 et seq., the stricken words 'Small Business Entity Tax Pass Through Act, § 4-38-101 et seq.', and all stricken provisions of the Small Business Entity Tax Pass Through Act, § 4-38-101 et seq., shall be treated as unstricken and operative and the underlined words 'Uniform Limited Liability Company Act, § 4-38-101 et seq.' and all underlined provisions of the Uniform Limited Liability Company Act, § 4-38-101 et seq. shall be treated as stricken and inoperative.

"(c) Any action or obligation of any public or private individual or entity that occurred under the following sections after July 27, 2021, and before September 1, 2021, that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, approved, and cured notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1:

"(1) Section 4-37-102(8), amended by Acts 2021, No. 1041, § 2;

"(2) Section 4-37-102(12), amended by Acts 2021, No. 1041, § 3;

"(3) Section 4-37-102(13), amended by Acts 2021, No. 1041, § 4;

"(4) Section 4-37-102(14), amended by Acts 2021, No. 1041, § 5;

"(5) Section 4-37-102(20), amended by Acts 2021, No. 1041, § 6;

"(6) Section 4-37-106, amended by Acts 2021, No. 1041, § 7;

"(7) Section 4-37-107(a)(4), amended by Acts 2021, No. 1041, § 8;

"(8) Section 4-37-108, amended by Acts 2021, No. 1041, § 9;

"(9) Section 4-37-201(c), amended by Acts 2021, No. 1041, § 10;

"(10) Section 4-37-201(d), amended by Acts 2021, No. 1041, § 11;

"(11) Section 4-37-202, amended by Acts 2021, No. 1041, § 12;

"(12) Section 4-37-204(a)(3), amended by Acts 2021, No. 1041, § 13;

"(13) Section 4-37-304(f), amended by Acts 2021, No. 1041, § 14;

"(14) Section 4-37-304(g), amended by Acts 2021, No. 1041, § 15;

"(15) Section 4-37-305, amended by Acts 2021, No. 1041, § 16;

"(16) Section 4-37-403, amended by Acts 2021, No. 1041, § 17;

"(17) Section 4-37-502, amended by Acts 2021, No. 1041, § 18;

"(18) Section 4-37-503, amended by Acts 2021, No. 1041, § 19;

"(19) Section 4-37-604, amended by Acts 2021, No. 1041, § 20;

"(20) Section 4-37-605(1), amended by Acts 2021, No. 1041, § 21;

"(21) Section 4-37-606(1), amended by Acts 2021, No. 1041, § 22;

"(22) Section 4-37-607, amended by Acts 2021, No. 1041, § 23;

"(23) Section 4-37-703(c), amended by Acts 2021, No. 1041, § 24;

"(24) Section 4-37-703(d), amended by Acts 2021, No. 1041, § 25;

"(25) Section 4-42-707(b), amended by Acts 2021, No. 1041, § 27;

"(26) Section 4-47-905(a), amended by Acts 2021, No. 1041, § 28;

"(27) Section 4-70-201(c), amended by Acts 2021, No. 1041, § 29;

"(28) Section 15-4-1215(b), amended by Acts 2021, No. 1041, § 30;

"(29) Section 26-18-303(b)(14)(B), amended by Acts 2021, No. 1041, § 32;

"(30) Section 26-54-104(8), amended by Acts 2021, No. 1041, § 34; and

"(31) Section 26-54-105(h)(2), amended by Acts 2021, No. 1041, § 36.

"(d) Before September 1, 2021, to the extent any codified or uncodified provision of Arkansas law is derived from or depends upon any provision of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., for its meaning or operation:

"(1) The provisions of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., shall be treated as remaining in full force and effect solely for the limited purpose of supplying the requisite meaning or operation to the codified or uncodified provision; and

"(2) Any action or obligation of any public or private individual or entity that occurred after July 27, 2021, and before September 1, 2021, under a codified or uncodified provision of Arkansas law that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et

seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, approved, and cured notwithstanding the repeal of the

Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1.”

CHAPTER 47

UNIFORM LIMITED PARTNERSHIP ACT (2001)

SUBCHAPTER 9 — FOREIGN LIMITED PARTNERSHIPS

4-47-905. Noncomplying name of foreign limited partnership.

A.C.R.C. Notes. Identical Acts 2021 (2nd Ex. Sess.), Nos. 7 and 12, § 5, provided: “Additional savings provisions.

“(a) It is the intent of this section to:

“(1) Provide for the transition and continuous operation and effect of additional provisions of Arkansas law related to limited liability companies and other business entities, whether or not specifically referenced in Acts 2021, No. 1041, including without limitation provisions affecting the operation and taxation aspects of limited liability companies and other business entities:

“(A) Under the Uniform Protected Series Act, § 4-37-101 et seq.; and

“(B) Concerning the authorized and unauthorized use of business names; and

“(2) Ratify, validate, confirm, approve, and cure any actions under a codified or uncoded provision described in this section.

“(b) For the period of time after July 27, 2021, and before September 1, 2021, with respect to Acts 2021, No. 1041, §§ 2-25, 27-30, 32, 34, and 36, concerning various definitions and transition provisions from the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., to the Uniform Limited Liability Company Act, § 4-38-101 et seq., the stricken words ‘Small Business Entity Tax Pass Through Act, § 4-38-101 et seq.’, and all stricken provisions of the Small Business Entity Tax Pass Through Act, § 4-38-101 et seq., shall be treated as unstricken and operative and the underlined words ‘Uniform Limited Liability Company Act, § 4-38-101 et seq.’ and all underlined provisions of the Uniform Limited Liability Company Act, § 4-38-101 et seq. shall be treated as stricken and inoperative.

“(c) Any action or obligation of any public or private individual or entity that

occurred under the following sections after July 27, 2021, and before September 1, 2021, that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, approved, and cured notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1:

“(1) Section 4-37-102(8), amended by Acts 2021, No. 1041, § 2;

“(2) Section 4-37-102(12), amended by Acts 2021, No. 1041, § 3;

“(3) Section 4-37-102(13), amended by Acts 2021, No. 1041, § 4;

“(4) Section 4-37-102(14), amended by Acts 2021, No. 1041, § 5;

“(5) Section 4-37-102(20), amended by Acts 2021, No. 1041, § 6;

“(6) Section 4-37-106, amended by Acts 2021, No. 1041, § 7;

“(7) Section 4-37-107(a)(4), amended by Acts 2021, No. 1041, § 8;

“(8) Section 4-37-108, amended by Acts 2021, No. 1041, § 9;

“(9) Section 4-37-201(c), amended by Acts 2021, No. 1041, § 10;

“(10) Section 4-37-201(d), amended by Acts 2021, No. 1041, § 11;

“(11) Section 4-37-202, amended by Acts 2021, No. 1041, § 12;

“(12) Section 4-37-204(a)(3), amended by Acts 2021, No. 1041, § 13;

“(13) Section 4-37-304(f), amended by Acts 2021, No. 1041, § 14;

“(14) Section 4-37-304(g), amended by Acts 2021, No. 1041, § 15;

“(15) Section 4-37-305, amended by Acts 2021, No. 1041, § 16;

“(16) Section 4-37-403, amended by Acts 2021, No. 1041, § 17;

“(17) Section 4-37-502, amended by Acts 2021, No. 1041, § 18;

"(18) Section 4-37-503, amended by Acts 2021, No. 1041, § 19;

"(19) Section 4-37-604, amended by Acts 2021, No. 1041, § 20;

"(20) Section 4-37-605(1), amended by Acts 2021, No. 1041, § 21;

"(21) Section 4-37-606(1), amended by Acts 2021, No. 1041, § 22;

"(22) Section 4-37-607, amended by Acts 2021, No. 1041, § 23;

"(23) Section 4-37-703(c), amended by Acts 2021, No. 1041, § 24;

"(24) Section 4-37-703(d), amended by Acts 2021, No. 1041, § 25;

"(25) Section 4-42-707(b), amended by Acts 2021, No. 1041, § 27;

"(26) Section 4-47-905(a), amended by Acts 2021, No. 1041, § 28;

"(27) Section 4-70-201(c), amended by Acts 2021, No. 1041, § 29;

"(28) Section 15-4-1215(b), amended by Acts 2021, No. 1041, § 30;

"(29) Section 26-18-303(b)(14)(B), amended by Acts 2021, No. 1041, § 32;

"(30) Section 26-54-104(8), amended by Acts 2021, No. 1041, § 34; and

"(31) Section 26-54-105(h)(2), amended by Acts 2021, No. 1041, § 36.

"(d) Before September 1, 2021, to the extent any codified or uncoded provision of Arkansas law is derived from or depends upon any provision of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., for its meaning or operation:

"(1) The provisions of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., shall be treated as remaining in full force and effect solely for the limited purpose of supplying the requisite meaning or operation to the codified or uncoded provision; and

"(2) Any action or obligation of any public or private individual or entity that occurred after July 27, 2021, and before September 1, 2021, under a codified or uncoded provision of Arkansas law that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, approved, and cured notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1."

SUBTITLE 5. CONTRACTS, NOTES, AND OTHER COMMERCIAL INSTRUMENTS

CHAPTER 59

FRAUD

SUBCHAPTER 2 — UNIFORM VOIDABLE TRANSACTIONS ACT

RESEARCH REFERENCES

ALR. Uniform Voidable Transactions
Act. 50 A.L.R.7th Art. 5 (2020).

4-59-202. Insolvency.

RESEARCH REFERENCES

ALR. Uniform Voidable Transactions
Act. 50 A.L.R.7th Art. 5 (2020).

4-59-204. Transfer or obligation voidable as to present or future creditor.

RESEARCH REFERENCES

ALR. Uniform Voidable Transactions Act. 50 A.L.R.7th Art. 5 (2020).

CASE NOTES

Value.

Court could not grant summary judgment for the bankruptcy trustee that debtor's transfers were voidable under federal law and this section because genuine issues of material fact remained; for example, the court had no uncontroverted

evidence to establish the value of each tract of land on the date it was transferred. *Cox v. McCutcheon* (In re McCutcheon), No. 3:19-bk-71902, 2021 Bankr. LEXIS 1676 (Bankr. W.D. Ark. Apr. 12, 2021).

4-59-205. Transfer or obligation voidable as to present creditor.

RESEARCH REFERENCES

ALR. Uniform Voidable Transactions Act. 50 A.L.R.7th Art. 5 (2020).

SUBTITLE 6. BUSINESS PRACTICES

CHAPTER 70

GENERAL PROVISIONS

SUBCHAPTER 2 — BUSINESS UNDER ASSUMED NAME

4-70-201. Applicability of subchapter.

A.C.R.C. Notes. Identical Acts 2021 (2nd Ex. Sess.), Nos. 7 and 12, § 5, provided: "Additional savings provisions.

"(a) It is the intent of this section to:

"(1) Provide for the transition and continuous operation and effect of additional provisions of Arkansas law related to limited liability companies and other business entities, whether or not specifically referenced in Acts 2021, No. 1041, including without limitation provisions affecting the operation and taxation aspects of limited liability companies and other business entities:

"(A) Under the Uniform Protected Series Act, § 4-37-101 et seq.; and

"(B) Concerning the authorized and unauthorized use of business names; and

"(2) Ratify, validate, confirm, approve, and cure any actions under a codified or uncoded provision described in this section.

"(b) For the period of time after July 27, 2021, and before September 1, 2021, with respect to Acts 2021, No. 1041, §§ 2-25, 27-30, 32, 34, and 36, concerning various definitions and transition provisions from the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., to the Uniform Limited Liability Company Act, § 4-38-101 et seq., the stricken words 'Small Business Entity Tax Pass Through Act, § 4-38-101 et seq.', and all stricken provisions of the Small Business Entity Tax Pass Through Act, § 4-38-101 et seq., shall be treated as unstricken and opera-

tive and the underlined words 'Uniform Limited Liability Company Act, § 4-38-101 et seq.' and all underlined provisions of the Uniform Limited Liability Company Act, § 4-38-101 et seq. shall be treated as stricken and inoperative.

"(c) Any action or obligation of any public or private individual or entity that occurred under the following sections after July 27, 2021, and before September 1, 2021, that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, approved, and cured notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1:

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"(3) Section 4-37-102(13), amended by Acts 2021, No. 1041, § 4;

"(4) Section 4-37-102(14), amended by Acts 2021, No. 1041, § 5;

"(5) Section 4-37-102(20), amended by Acts 2021, No. 1041, § 6;

"(6) Section 4-37-106, amended by Acts 2021, No. 1041, § 7;

"(7) Section 4-37-107(a)(4), amended by Acts 2021, No. 1041, § 8;

"(8) Section 4-37-108, amended by Acts 2021, No. 1041, § 9;

"(9) Section 4-37-201(c), amended by Acts 2021, No. 1041, § 10;

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"(12) Section 4-37-204(a)(3), amended by Acts 2021, No. 1041, § 13;

"(13) Section 4-37-304(f), amended by Acts 2021, No. 1041, § 14;

"(14) Section 4-37-304(g), amended by Acts 2021, No. 1041, § 15;

"(15) Section 4-37-305, amended by Acts 2021, No. 1041, § 16;

"(16) Section 4-37-403, amended by Acts 2021, No. 1041, § 17;

"(17) Section 4-37-502, amended by Acts 2021, No. 1041, § 18;

"(18) Section 4-37-503, amended by Acts 2021, No. 1041, § 19;

"(19) Section 4-37-604, amended by Acts 2021, No. 1041, § 20;

"(20) Section 4-37-605(1), amended by Acts 2021, No. 1041, § 21;

"(21) Section 4-37-606(1), amended by Acts 2021, No. 1041, § 22;

"(22) Section 4-37-607, amended by Acts 2021, No. 1041, § 23;

"(23) Section 4-37-703(c), amended by Acts 2021, No. 1041, § 24;

"(24) Section 4-37-703(d), amended by Acts 2021, No. 1041, § 25;

"(25) Section 4-42-707(b), amended by Acts 2021, No. 1041, § 27;

"(26) Section 4-47-905(a), amended by Acts 2021, No. 1041, § 28;

"(27) Section 4-70-201(c), amended by Acts 2021, No. 1041, § 29;

"(28) Section 15-4-1215(b), amended by Acts 2021, No. 1041, § 30;

"(29) Section 26-18-303(b)(14)(B), amended by Acts 2021, No. 1041, § 32;

"(30) Section 26-54-104(8), amended by Acts 2021, No. 1041, § 34; and

"(31) Section 26-54-105(h)(2), amended by Acts 2021, No. 1041, § 36.

"(d) Before September 1, 2021, to the extent any codified or uncoded provision of Arkansas law is derived from or depends upon any provision of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., for its meaning or operation:

"(1) The provisions of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., shall be treated as remaining in full force and effect solely for the limited purpose of supplying the requisite meaning or operation to the codified or uncoded provision; and

"(2) Any action or obligation of any public or private individual or entity that occurred after July 27, 2021, and before September 1, 2021, under a codified or uncoded provision of Arkansas law that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, approved, and cured notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1."

CHAPTER 72

FRANCHISES

SUBCHAPTER 2 — ARKANSAS FRANCHISE PRACTICES ACT

4-72-204. Termination, cancellation, or failure to renew.

RESEARCH REFERENCES

ALR. Suits or Claims for Rescission of Restaurant Franchise Agreements. 62 A.L.R.7th Art. 3 (2021).

4-72-208. Franchisee's remedies.

RESEARCH REFERENCES

ALR. Suits or Claims for Rescission of Restaurant Franchise Agreements. 62 A.L.R.7th Art. 3 (2021).

CHAPTER 75

UNFAIR PRACTICES

SUBCHAPTER 2 — UNFAIR PRACTICES ACT

4-75-207. Destruction of competition by price discrimination prohibited.

CASE NOTES

Violation Not Shown.

In action brought by a business competitor alleging in part that defendant business sold certain products at one price in its store and on its website and at a higher price on the Walmart website, summary judgment was properly granted to defendant on plaintiff's claim under this section as plaintiff failed to establish

with enough specificity that defendant was selling identical items at different prices with a focus on the location of the purchaser and with the intent to injure competition. Rather, plaintiff argued in conclusory fashion that defendant was trying to destroy competition between the parties. *A&B Pawn Shop v. Mack's Sport Shop, LLLP*, 2021 Ark. App. 498 (2021).

4-75-208. Secret payments or allowance of rebates, refunds, etc. — Penalty.

CASE NOTES

Violation Not Shown.

In action brought by a business com-

petitor alleging in part that defendant business sold certain products on the Wal

mart website in contravention of the manufacturer's policy against having its products sold on that website, summary judgment was properly granted to defendant on plaintiff's claim under this section as plaintiff provided no evidence of any

secret payments or special privileges from the manufacturer to defendant nor was there any proof that such actions tended to harm competition. *A&B Pawn Shop v. Mack's Sport Shop, LLLP*, 2021 Ark. App. 498 (2021).

SUBTITLE 7. CONSUMER PROTECTION

CHAPTER 86

GENERAL PROVISIONS

SECTION.
4-86-111. [Repealed.]

Effective Dates. Identical Acts 2021 (2nd Ex. Sess.), Nos. 9 and 13, § 2: Dec. 9, 2021. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the limitations established under Acts 2021, No. 1104, § 1, on pharmaceutical manufacturer discounts for insulin may negatively affect the economic health of the state, leading to higher costs on health benefit plans; that the limitations on pharmaceutical manufacturer discounts established under Acts 2021, No. 1104, § 1, need to be repealed to preserve the public peace, health, and safety of the state; and that this act is immediately

necessary to protect the economic health of the state and preserve the public peace, health, and safety of the state. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

4-86-111. [Repealed.]

Publisher's Notes. This section, concerning pharmaceutical manufacturer discounts for insulin, was repealed by identical Acts 2021 (2nd Ex. Sess.), Nos. 9

and 13, § 1, effective December 9, 2021. The section was derived from Acts 2021, No. 1104, § 1.

CHAPTER 88

DECEPTIVE TRADE PRACTICES

SUBCHAPTER 1 — GENERAL PROVISIONS

4-88-105. Consumer Protection Division.

CASE NOTES

Sovereign Immunity.

In an action challenging various actions of the Arkansas Attorney General, such as legal filings in out-of-state litigation, spending public funds on certain TV commercials, and partisan activities, the plaintiff taxpayers failed to plead an ultra vires act by the Attorney General that

would surmount a sovereign immunity defense as this section did not prohibit spending during election season. The discretion to spend resided with the Attorney General under Arkansas law. *Rutledge v. Remmel*, 2022 Ark. 86, 643 S.W.3d 5 (2022).

4-88-107. Deceptive and unconscionable trade practices generally.

RESEARCH REFERENCES

ALR. Unfair or Deceptive Mortgage Fees Under State Unfair or Deceptive Trade Practice Laws. 60 A.L.R.7th Art. 1 (2021).

4-88-113. Civil enforcement and remedies — Suspension or forfeiture of charter, franchise, etc.

CASE NOTES

Actual Financial Loss.

In action alleging defendant business made disparaging statements about plaintiff business and pressured vendors to refuse to do business with plaintiff, summary judgment was properly granted to defendant on plaintiff's claim under the

Arkansas Deceptive Trade Practices Act because plaintiff failed to present evidence of an "actual financial loss" as required by this section. *A&B Pawn Shop v. Mack's Sport Shop, LLLP*, 2021 Ark. App. 498 (2021).

CHAPTER 99

REGULATION OF TELEPHONIC SELLERS

SUBCHAPTER 1 — GENERAL PROVISIONS

4-99-110. Soliciting prospective purchasers on behalf of unregistered telephonic seller prohibited — Violation.

RESEARCH REFERENCES

ALR. Unsolicited Calling and Messaging Under Communications Act of 1934, as Amended by Telephone Consumer Protection Act of 1991, as Amended, (TCPA) (47 U.S.C. § 227) and Regulations Thereunder (47 C.F.R. § 64.1200) — Federal Cases. 52 A.L.R. Fed. 3d Art. 1 (2020).

SUBCHAPTER 4 — ARKANSAS CONSUMER TELEPHONE PRIVACY ACT

4-99-405. Prohibitions.

RESEARCH REFERENCES

ALR. Unsolicited Calling and Messaging Under Communications Act of 1934, as Amended by Telephone Consumer Protection Act of 1991, as Amended, (TCPA) (47 U.S.C. § 227) and Regulations Thereunder (47 C.F.R. § 64.1200) — Federal Cases. 52 A.L.R. Fed. 3d Art. 1 (2020).

TITLE 5

CRIMINAL OFFENSES

SUBTITLE 1. GENERAL PROVISIONS

CHAPTER 1

GENERAL PROVISIONS

5-1-109. Statute of limitations.

RESEARCH REFERENCES

ALR. Limitations of Actions for Physical or Sexual Abuse of Child Under 18 U.S.C. § 3283. 67 A.L.R. Fed. 3d Art. 7 (2022).

5-1-110. Conduct constituting more than one offense — Prosecution.

CASE NOTES

ANALYSIS

Lesser-Included Offenses.
Writ of Error Coram Nobis.

Lesser-Included Offenses.

Trial court did not abuse its discretion in refusing to give an instruction on second-degree murder as a lesser-included offense of first-degree murder because none of the evidence defendant presented—that his purpose was to disable a robot, that he used a gun, that he checked the victim's pulse before shooting her, that he believed he was shooting blanks at a ro-

bot, or that he and the victim, his wife, may have been fighting—provided a rational basis for the jury to acquit him of first-degree murder and convict him of second-degree murder. *Marshall v. State*, 2021 Ark. 158, 627 S.W.3d 810 (2021).

Writ of Error Coram Nobis.

Court denied the pro se petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis because double jeopardy claims do not fall within any of the four categories of recognized coram nobis claims. *Kou Her v. State*, 2021 Ark. 175, 630 S.W.3d 603 (2021).

5-1-111. Burden of proof — Defenses and affirmative defenses — Presumption.

CASE NOTES

Defenses.

Defendant did not present sufficient evidence to support his affirmative defense of duress; although defendant testified that he did not know the victim and that he

had been kidnapped by three strangers, the jury was not obligated to believe that account. *Crawford v. State*, 2022 Ark. App. 214 (2022).

CHAPTER 2

PRINCIPLES OF CRIMINAL LIABILITY

SUBCHAPTER 2 — CULPABILITY

5-2-208. Duress.

CASE NOTES

Evidence.

Defendant did not present sufficient evidence to support his affirmative defense of duress; although defendant testified that he did not know the victim and that he

had been kidnapped by three strangers, the jury was not obligated to believe that account. *Crawford v. State*, 2022 Ark. App. 214 (2022).

5-2-209. Entrapment.

CASE NOTES

Burden of Proof.

Circuit court properly refused to instruct the jury on entrapment because defendant's testimony about an informant's actions was not enough to raise a factual question as to entrapment, and he

failed to present evidence to indicate that he was induced by governmental conduct of a character likely to cause a normally law-abiding person to commit the offense. Haynes v. State, 2022 Ark. App. 191, 644 S.W.3d 249 (2022).

SUBCHAPTER 4 — PARTIES TO OFFENSES

5-2-401. Criminal liability generally.

CASE NOTES

Evidence.

There was sufficient evidence of defendant's intent to commit first-degree murder because the evidence showed that defendant, armed with a handgun, entered the victim's house along with another person armed with a rifle, while a third

armed person remained outside on the carport. The evidence showed, at the very least, that defendant was an accomplice to the person who shot the victim and, at most, that defendant was the person who actually shot the victim. Crawford v. State, 2022 Ark. App. 214 (2022).

5-2-402. Liability for conduct of another generally.

CASE NOTES

Evidence.

There was sufficient evidence of defendant's intent to commit first-degree murder because the evidence showed that defendant, armed with a handgun, entered the victim's house along with another person armed with a rifle, while a third

armed person remained outside on the carport. The evidence showed, at the very least, that defendant was an accomplice to the person who shot the victim and, at most, that defendant was the person who actually shot the victim. Crawford v. State, 2022 Ark. App. 214 (2022).

5-2-403. Accomplices.

CASE NOTES

ANALYSIS

Evidence.
Evidence Sufficient.

Evidence.

Substantial evidence supported defendant's conviction for aggravated robbery as an accomplice, as defendant had stolen cash on his person, which was suggestive of joint participation, and a cigar box

containing cash from the convenience store was found in a shed with defendant where he was hiding. Roberts v. State, 2022 Ark. App. 149, 643 S.W.3d 843 (2022).

There was sufficient evidence of defendant's intent to commit first-degree murder because the evidence showed that defendant, armed with a handgun, entered the victim's house along with another person armed with a rifle, while a third

armed person remained outside on the carport. The evidence showed, at the very least, that defendant was an accomplice to the person who shot the victim and, at most, that defendant was the person who actually shot the victim. *Crawford v. State*, 2022 Ark. App. 214 (2022).

Evidence Sufficient.

Evidence supported defendant's conviction for aggravated robbery because the victim identified defendant and testified that defendant was one of two people who robbed the victim while wearing black gloves and a blue bandana as defendant's accomplice pointed a gun at the victim. Furthermore, black gloves and a blue bandana were found in defendant's car during a search, the victim's keys were found near where the alleged accomplice was

stopped, and a handgun was found along the accomplice's path from the victim's residence. *Martin v. State*, 2021 Ark. App. 463 (2021).

Evidence was sufficient to support defendant's convictions of capital felony murder, kidnapping, and aggravated robbery as an accomplice because his codefendant texted his girlfriend that defendant had "snatched the purse" and they divided the cash that was in the purse, defendant drove the victim's stolen vehicle with the victim inside, the victim's injuries were consistent with someone "stomping" on her, defendant was in a music group that had songs about stomping someone to death, and the victim's blood was found on defendant's shoes. *Smith v. State*, 2022 Ark. 95 (2022).

SUBCHAPTER 6 — JUSTIFICATION

5-2-607. Use of deadly physical force in defense of a person.

CASE NOTES

Instructions.

Circuit court did not clearly err in concluding that postconviction petitioner failed to establish that counsel was ineffective for failing to proffer the entire justification instruction under this section concerning there being no duty to retreat from the curtilage of his dwelling; the evidence indicated that the shooting took place in a common area in a parking lot in front of defendant's side of the duplex and thus he was not entitled to a justification instruction that included the optional curtilage language. *Gray v. State*, 2021 Ark. App. 406, 636 S.W.3d 102 (2021).

Circuit court did not clearly err in finding that postconviction petitioner did not show ineffective assistance when counsel failed to raise a due process objection; petitioner was not prohibited from pre-

senting his self-defense theory and the evidence did not support instructing the jury on the optional curtilage language under this section. *Gray v. State*, 2021 Ark. App. 406, 636 S.W.3d 102 (2021).

Circuit court did not clearly err in finding that postconviction petitioner's additional term of 15 years' imprisonment resulted from evidence that he had employed a firearm in causing the victim's death and that it was speculation that the outcome would have been different had the jury been instructed on the curtilage concept of the justification defense under this section; petitioner shot and killed the victim in a common area that was not part of his curtilage, and further, § 16-90-120(d) covered this issue. *Gray v. State*, 2021 Ark. App. 406, 636 S.W.3d 102 (2021).

CHAPTER 4

DISPOSITION OF OFFENDERS

SUBCHAPTER 1 — GENERAL PROVISIONS

5-4-104. Authorized sentences generally.

CASE NOTES

Illegal Sentence.

Revocation of defendant's probation was proper, but a remand was necessary because the sentencing order reflected an

illegal probationary sentence to follow imprisonment. *Moore v. State*, 2022 Ark. App. 185, 644 S.W.3d 448 (2022).

5-4-107. Extended supervision and monitoring for certain sex offenders.

RESEARCH REFERENCES

ALR. Registration Under Sex Offender Registration Statute When Underlying

Conduct Was Voyeurism. 63 A.L.R.7th Art. 5 (2021).

SUBCHAPTER 2 — FINES, COSTS, AND RESTITUTION

5-4-205. Restitution.

CASE NOTES

ANALYSIS

Amount of Restitution.
Revocation Proper.

Amount of Restitution.

Circuit court did not clearly err in determining the amount of defendant's restitution after he pleaded guilty to the offense of obstructing governmental operations because there was evidence before the circuit court that would support the amount of restitution ordered for the

cows that defendant sold. *Baugh v. State*, 2021 Ark. App. 400, 635 S.W.3d 9 (2021).

Revocation Proper.

Trial court did not err by revoking defendant's probation based on a failure to pay court-ordered fines, fees, and restitution after finding defendant's claim — that he could and would pay if the court changed the amount he was required to pay — lacked credibility based on his prior record of nonpayment. *Young v. State*, 2022 Ark. App. 224 (2022).

SUBCHAPTER 3 — SUSPENSION OR PROBATION

5-4-303. Conditions of suspension or probation.

CASE NOTES

Statement of Conditions.

Revocation of defendant's suspended sentence was appropriate because the State presented the testimony of a sher-

iff's office employee that defendant had not paid any money toward the fees, fines, or costs that were imposed and shown in an exhibit (\$660). Because defendant

signed the suspended imposition of sentence terms that included an obligation to pay the fines, fees, and costs, defendant's purported lack of knowledge of his obliga-

tion to pay was not a basis to reverse the circuit court's decision. *Wilcox v. State*, 2021 Ark. App. 244, 624 S.W.3d 353 (2021).

5-4-304. Confinement as condition of suspension or probation.

CASE NOTES

Jail-Time Credit.

Defendant was not entitled to 178 days of jail-time credit because the exclusion of the additional 118-day jail-time credit was not an inadvertent scrivener's error.

Rather, defendant was ordered to serve 118 days in the detention center as a condition of his probation under this section. *Long v. State*, 2022 Ark. App. 69, 639 S.W.3d 894 (2022).

5-4-306. Time period generally.

CASE NOTES

Applicability.

Circuit court had no jurisdiction to revoke defendant's probation, as the circuit court had no authority to impose a sentence of 15 months' probation for an offense with a maximum sentence of 12 months, making the sentence illegal; pro-

bation could not have been imposed for a period past February 15, 2019, and defendant was not on probation in April 2019 when the petition to revoke was filed. *Burton v. State*, 2021 Ark. App. 471, 636 S.W.3d 398 (2021).

SUBCHAPTER 4 — IMPRISONMENT

5-4-401. Sentence.

CASE NOTES

Juveniles.

After defendant had been sentenced as a juvenile to life without parole and was resentenced under *Miller v. Alabama* and received a sentence of life imprisonment, he argued on appeal that a sentence of life imprisonment in Arkansas is a sentence of life without parole; however, defendant did not face a possible sentence of life

without parole but instead faced a possible sentence of 10 to 40 years in prison, or life, with parole eligibility after 30 years. In addition, the State was not required to prove that defendant was permanently incorrigible in this situation. *Elliott v. State*, 2021 Ark. 114 (2021).

Cited: *Kirby v. State*, 2022 Ark. App. 71 (2022).

SUBCHAPTER 5 — EXTENDED TERM OF IMPRISONMENT

5-4-501. Habitual offenders — Sentencing for felony.

CASE NOTES

ANALYSIS

Propriety of Sentence.
Sentences.

Propriety of Sentence.

In a case in which defendant pled guilty to failure to register as a sex offender, and pled guilty as a habitual offender, the circuit court did not err in sentencing defendant to only a \$10,000 fine because a plain reading of the version of subdivision (a)(1) of this section in effect in 2019 at the time defendant committed the crime permitted the circuit court to impose a fine, imprisonment, or both as that statute said that a defendant “may be sentenced to pay any fine authorized by law for the felony conviction and to an extended term of

imprisonment”. State v. Mason, 2022 Ark. 47, 639 S.W.3d 348 (2022) (decided under former version of section).

Sentences.

Appellant’s pro se petition to correct illegal sentence, which contended that his previous convictions for two counts of terroristic act were merged into one count for purposes of subsection (d) of this section after he pleaded guilty, lacked merit as appellant admitted he was given two concurrent sentences for those previous convictions; thus, appellant’s life sentence as a habitual offender was legal on its face and it was clearly within the prescribed statutory range. Coakley v. State, 2021 Ark. 180 (2021).

SUBCHAPTER 6 — TRIAL AND SENTENCE — CAPITAL MURDER

5-4-618. Defendants with intellectual disabilities.

CASE NOTES

Determinative Factors.

Prisoner sentenced to death for capital murder was properly denied relief on his Atkins v. Virginia claim because the district court properly analyzed the required elements under Arkansas law and found

that petitioner failed to prove the existence of any significant functioning deficits. Sasser v. Payne, 999 F.3d 609 (8th Cir. 2021), cert. denied, — U.S. —, 142 S. Ct. 2742, 212 L. Ed. 2d 799 (2022).

CHAPTER 5

DISPOSITION OF CONTRABAND AND SEIZED PROPERTY

SUBCHAPTER 1 — GENERAL PROVISIONS

5-5-101. Disposition of contraband and seized property.

CASE NOTES

Construction.

In a case finding that \$65,850 seized from defendant was contraband under this section, the circuit court erred in

allowing the State to proceed under this section, because an earlier civil forfeiture order under § 5-64-505 had been reversed in a previous appeal as untimely filed; in

addition, defendant was not charged with any drug-related offense, and this section did not prohibit a person from possessing currency while committing either of the

criminal acts defendant was charged with. Cruz v. State, 2021 Ark. App. 282, 627 S.W.3d 563 (2021).

SUBTITLE 2. OFFENSES AGAINST THE PERSON

CHAPTER 10

HOMICIDE

RESEARCH REFERENCES

ALR. Homicide by Willfully Depriving Another of Sufficient Clothing or Shelter. 53 A.L.R.7th Art. 2 (2020).

5-10-101. Capital murder.

RESEARCH REFERENCES

ALR. Homicide Constituting, or Involving Aspects of, “Depraved-Heart Murder”. 70 A.L.R.7th Art. 2 (2022).

CASE NOTES

ANALYSIS

Accomplice.
Evidence.

Accomplice.

State presented sufficient evidence to support defendant’s conviction for premeditated and deliberated capital murder as an accomplice because his statements and actions established his motive and intent for the principals to kill the victim. The State presented evidence that he had solicited the principals to come from another state to commit the murder and presented circumstantial evidence that he provided the vehicles seen at the crime scene, was present at the murder, helped dispose of the vehicles after the murder, and fled to Mexico with the principals who carried out the murder. Keesee v. State, 2022 Ark. 68, 641 S.W.3d 628 (2022).

Evidence.

Substantial evidence supported the verdict adjudicating defendant juvenile delinquent for capital murder and aggra-

vated robbery, because the store’s video surveillance showed that within a time-frame of forty-five minutes, he entered the store, took some items, and exited; entered the store again, shot the store clerk, and exited; and entered the store once again and took additional items. The jury was free to find that the murder occurred in the course of an aggravated robbery. A.M. v. State, 2021 Ark. App. 418 (2021).

Evidence was sufficient to support defendant’s convictions of capital felony murder, kidnapping, and aggravated robbery as an accomplice because his codefendant texted his girlfriend that defendant had “snatched the purse” and they divided the cash that was in the purse, defendant drove the victim’s stolen vehicle with the victim inside, the victim’s injuries were consistent with someone “stomping” on her, defendant was in a music group that had songs about stomping someone to death, and the victim’s blood was found on defendant’s shoes. Smith v. State, 2022 Ark. 95 (2022).

5-10-102. Murder in the first degree.

RESEARCH REFERENCES

ALR. Homicide by Willfully Depriving Another of Sufficient Clothing or Shelter. 53 A.L.R.7th Art. 2 (2020).

Homicide Constituting, or Involving Aspects of, "Depraved-Heart Murder". 70 A.L.R.7th Art. 2 (2022).

CASE NOTES

ANALYSIS

Intent.

—Evidence.

Lesser-Included Offenses.

Intent.

—Evidence.

In a first-degree murder case, the circuit court did not err when it denied defendant's motion for directed verdict because the State offered sufficient evidence that he acted with purposeful intent to cause the death of the victim as he shot her three times after finding out that she was cheating on him; he never told anyone that the shooting was accidental. *Bragg v. State*, 2021 Ark. App. 381 (2021).

There was sufficient evidence of defendant's intent to commit first-degree murder because the evidence showed that defendant, armed with a handgun, entered the victim's house along with another person armed with a rifle, while a third

armed person remained outside on the carport. The evidence showed, at the very least, that defendant was an accomplice to the person who shot the victim and, at most, that defendant was the person who actually shot the victim. *Crawford v. State*, 2022 Ark. App. 214 (2022).

Lesser-Included Offenses.

Trial court did not abuse its discretion in refusing to give an instruction on second-degree murder as a lesser-included offense of first-degree murder because none of the evidence defendant presented—that his purpose was to disable a robot, that he used a gun, that he checked the victim's pulse before shooting her, that he believed he was shooting blanks at a robot, or that he and the victim, his wife, may have been fighting—provided a rational basis for the jury to acquit him of first-degree murder and convict him of second-degree murder. *Marshall v. State*, 2021 Ark. 158, 627 S.W.3d 810 (2021).

5-10-103. Murder in the second degree.

RESEARCH REFERENCES

ALR. Homicide by Willfully Depriving Another of Sufficient Clothing or Shelter. 53 A.L.R.7th Art. 2 (2020).

Homicide Constituting, or Involving Aspects of, "Depraved-Heart Murder". 70 A.L.R.7th Art. 2 (2022).

CASE NOTES

ANALYSIS

Evidence.

—Causation.

Evidence.

—Causation.

Defendant's conviction of the lesser-included Class A felony offense of murder in

the second degree and sentencing enhancement under § 16-90-120 was supported by sufficient evidence, as the jury could have reasonably inferred the single bullet fired by defendant in the victim's direction inside the nightclub caused the victim's death. *Stackhouse v. State*, 2022 Ark. App. 204 (2022).

5-10-104. Manslaughter.

RESEARCH REFERENCES

ALR. Homicide by Willfully Depriving Another of Sufficient Clothing or Shelter. 53 A.L.R.7th Art. 2 (2020).

Civil or Criminal Liability for “Co-

Sleeping” Deaths and Injuries Involving Infants and Young Children. 68 A.L.R.7th Art. 4 (2022).

CASE NOTES

ANALYSIS

Extreme Emotional Disturbance.
Instructions.

Extreme Emotional Disturbance.

In a first-degree murder case, the circuit court did not err when it denied defendant’s motion for directed verdict because the State offered sufficient evidence that he acted with purposeful intent to cause the death of the victim as he shot her three times after finding out that she was cheating on him; he never told anyone that the shooting was accidental. The circuit court did not abuse its discretion by denying him an extreme-emotional-dis-

turbance manslaughter instruction, because defendant never claimed that the victim threatened him or had a weapon before he shot her. *Bragg v. State*, 2021 Ark. App. 381 (2021).

Instructions.

Circuit court did not clearly err in finding counsel was not ineffective for failing to request a reckless-manslaughter instruction under this section, even if the skip rule did not apply, as there was no rational basis to support it; a crime scene investigator testified about the trajectory of the bullets and his theory that the vehicle was backing away when it was shot in the front. *Gray v. State*, 2021 Ark. App. 406, 636 S.W.3d 102 (2021).

5-10-105. Negligent homicide.

RESEARCH REFERENCES

ALR. Homicide by Willfully Depriving Another of Sufficient Clothing or Shelter. 53 A.L.R.7th Art. 2 (2020).

Civil or Criminal Liability for “Co-

Sleeping” Deaths and Injuries Involving Infants and Young Children. 68 A.L.R.7th Art. 4 (2022).

CHAPTER 11

KIDNAPPING AND RELATED OFFENSES

5-11-102. Kidnapping.

CASE NOTES

ANALYSIS

Evidence.
Sex Offender Registration.

Evidence.

Evidence was sufficient to support defendant’s convictions of capital felony

murder, kidnapping, and aggravated robbery as an accomplice because his codefendant texted his girlfriend that defendant had “snatched the purse” and they divided the cash that was in the purse, defendant drove the victim’s stolen vehicle with the victim inside, the victim’s injuries were consistent with someone “stomping” on

her, defendant was in a music group that had songs about stomping someone to death, and the victim’s blood was found on defendant’s shoes. *Smith v. State*, 2022 Ark. 95 (2022).

Sex Offender Registration.

Circuit court erred by not requiring defendant to register as a sex offender in

its judgment of acquittal because he was not the parent of the minor victims; thus, his acquittal by reason of mental disease or defect of two counts each of kidnapping and first-degree false imprisonment of minors who were not his children required him to register as a sex offender. *State v. Scott*, 2022 Ark. 8, 636 S.W.3d 768 (2022).

5-11-103. False imprisonment in the first degree.

CASE NOTES

Sex Offender Registration.

Circuit court erred by not requiring defendant to register as a sex offender in its judgment of acquittal because he was not the parent of the minor victims; thus, his acquittal by reason of mental disease

or defect of two counts each of kidnapping and first-degree false imprisonment of minors who were not his children required him to register as a sex offender. *State v. Scott*, 2022 Ark. 8, 636 S.W.3d 768 (2022).

CHAPTER 12

ROBBERY

5-12-103. Aggravated robbery.

CASE NOTES

ANALYSIS

Accomplice.
Evidence.

Accomplice.

Evidence supported defendant’s conviction for aggravated robbery because the victim identified defendant and testified that defendant was one of two people who robbed the victim while wearing black gloves and a blue bandana as defendant’s accomplice pointed a gun at the victim. Furthermore, black gloves and a blue bandana were found in defendant’s car during a search, the victim’s keys were found near where the alleged accomplice was stopped, and a handgun was found along the accomplice’s path from the victim’s residence. *Martin v. State*, 2021 Ark. App. 463 (2021).

Substantial evidence supported defendant’s conviction for aggravated robbery, as defendant had stolen cash on his person, which was suggestive of joint participation, and a cigar box containing cash from the convenience store was found in a shed with defendant where he was hiding.

Roberts v. State, 2022 Ark. App. 149, 643 S.W.3d 843 (2022).

Evidence.

Evidence was sufficient to support defendant’s convictions of capital felony murder, kidnapping, and aggravated robbery as an accomplice because his codefendant texted his girlfriend that defendant had “snatched the purse” and they divided the cash that was in the purse, defendant drove the victim’s stolen vehicle with the victim inside, the victim’s injuries were consistent with someone “stomping” on her, defendant was in a music group that had songs about stomping someone to death, and the victim’s blood was found on defendant’s shoes. *Smith v. State*, 2022 Ark. 95 (2022).

Evidence was sufficient to sustain defendant’s aggravated robbery conviction because defendant confessed to his mother that he tried to rob a store with a toy gun, the record contained other evidence identifying defendant as the robber, and a broken tip matching the toy gun was found in defendant’s room. *Wright v.*

State, 2022 Ark. 103, 644 S.W.3d 236 (2022).

CHAPTER 13

ASSAULT AND BATTERY

SUBCHAPTER 2 — OFFENSES GENERALLY

5-13-201. Battery in the first degree.

RESEARCH REFERENCES

ALR. Civil or Criminal Liability for ing Infants and Young Children. 68 “Co-Sleeping” Deaths and Injuries Involv- A.L.R.7th Art. 4 (2022).

CASE NOTES

Evidence.

Circuit court properly sentenced defendant to an aggregate term of 50 years’ imprisonment after a jury found him guilty of two counts of first-degree battery because defendant’s unprovoked conduct in attacking one victim by dragging her in a guillotine-style chokehold and striking the other victim in the head with a ham-

mer repeatedly and with such force as to drive a skull fragment into his brain were life-threatening activities, and the jury was free to believe the State’s testimony rather than defendant’s self-serving testimony that he did not intend to hurt the victims. King v. State, 2021 Ark. App. 339 (2021).

5-13-202. Battery in the second degree.

RESEARCH REFERENCES

ALR. Civil or Criminal Liability for ing Infants and Young Children. 68 “Co-Sleeping” Deaths and Injuries Involv- A.L.R.7th Art. 4 (2022).

5-13-203. Battery in the third degree.

RESEARCH REFERENCES

ALR. Civil or Criminal Liability for ing Infants and Young Children. 68 “Co-Sleeping” Deaths and Injuries Involv- A.L.R.7th Art. 4 (2022).

5-13-205. Assault in the first degree.

RESEARCH REFERENCES

ALR. Civil or Criminal Liability for ing Infants and Young Children. 68 “Co-Sleeping” Deaths and Injuries Involv- A.L.R.7th Art. 4 (2022).

5-13-206. Assault in the second degree.

RESEARCH REFERENCES

ALR. Civil or Criminal Liability for ing Infants and Young Children. 68
“Co-Sleeping” Deaths and Injuries Involv- A.L.R.7th Art. 4 (2022).

5-13-207. Assault in the third degree.

RESEARCH REFERENCES

ALR. Civil or Criminal Liability for ing Infants and Young Children. 68
“Co-Sleeping” Deaths and Injuries Involv- A.L.R.7th Art. 4 (2022).

5-13-211. Aggravated assault upon a law enforcement officer or an employee of a correctional facility.

CASE NOTES

Evidence Sufficient.
Circuit court properly denied defendant’s motion for a directed verdict after a jury convicted him of aggravated assault upon an employee of a correctional facility because there was sufficient evidence from which the jury could find that the liquid thrown on the employee was urine where the employee testified that the liquid defendant threw on him was warm and had a strong urine smell, and the jury obviously did not find defendant’s self-serving version of events to be credible. Steward v. State, 2022 Ark. App. 196, 644 S.W.3d 253 (2022).

SUBCHAPTER 3 — TERRORISTIC THREATS AND ACTS

5-13-301. Terroristic threatening.

CASE NOTES

ANALYSIS
Evidence.
—Admission.
Evidence.
—Admission.
In a case in which appellant juvenile was adjudicated delinquent for the offense of terroristic threatening and committed to the Division of Youth Services, the circuit court’s admission of statements the juvenile made to a police officer was harmless beyond a reasonable doubt because two eyewitnesses testified about the juvenile’s threats to harm the victim and to shoot up his house, and their testimony provided overwhelming independent evidence as to the juvenile’s guilt. A.H. v. State, 2022 Ark. App. 72 (2022).

CHAPTER 14

SEXUAL OFFENSES

SUBCHAPTER 1 — GENERAL PROVISIONS

5-14-101. Definitions.

CASE NOTES

ANALYSIS

Forcible Compulsion.
Sexual Contact.

Forcible Compulsion.

Defendant admitted that he touched the victim's legs multiple times against her will and that he persisted in his behavior after she asked him to stop; the evidence showed that defendant's touching was against the victim's will, which was all that was necessary to prove physical force. *PR v. State*, 2022 Ark. App. 270 (2022).

Sexual Contact.

Where juvenile was found guilty of second-degree sexual assault under § 5-14-125(a)(5)(A), despite the trial court having found that the juvenile did not act for the purpose of sexual gratification, the trial court made an error of law by finding that there was "sexual contact" based on the presumption. The trial court's finding that sexual gratification was not proved effectively rebutted the presumption as defined under the statute. *W.O. v. State*, 2022 Ark. App. 45, 640 S.W.3d 424 (2022).

5-14-103. Rape.

RESEARCH REFERENCES

ALR. Privacy Rights of Child Victim of Crime in Legal Proceeding Under State Statute. 69 A.L.R.7th Art. 3 (2022).

CASE NOTES

ANALYSIS

Evidence.
—Sufficiency.
—Testimony of Minor Victims.

Evidence.

—Sufficiency.

Evidence was sufficient to convict defendant of rape and second-degree sexual assault because the victim, defendant's step-granddaughter, testified that defendant touched her breasts under her bra

and penetrated her digitally and with his sexual organ; and a victim's testimony alone is sufficient and substantial evidence to support a rape or a second-degree sexual assault conviction. *McCormick v. State*, 2022 Ark. App. 259 (2022).

—Testimony of Minor Victims.

Standing alone, the child victim's testimony provided substantial evidence to support the rape conviction, and any inconsistencies in the victim's testimony were for the jury to resolve. *Warner v. State*, 2021 Ark. 215 (2021).

5-14-110. Sexual indecency with a child.

RESEARCH REFERENCES

ALR. Privacy Rights of Child Victim of Crime in Legal Proceeding Under State Statute. 69 A.L.R.7th Art. 3 (2022).

5-14-124. Sexual assault in the first degree.

RESEARCH REFERENCES

ALR. Privacy Rights of Child Victim of Crime in Legal Proceeding Under State Statute. 69 A.L.R.7th Art. 3 (2022).

CASE NOTES

Constitutionality.

There is a rational basis for the law prohibiting a school employee from having sex with a minor student enrolled in the school district that employs him or her; consequently, § 5-14-124(a)(1)(D) did not violate defendant’s right to privacy or intimate association under the Arkansas or United States Constitutions. *Johnson v. State*, 2021 Ark. App. 256, 626 S.W.3d 451 (2021).

Rational-basis review of defendant’s equal protection claim was called for because § 5-14-124(a)(1)(D) does not implicate a fundamental right or discriminate against a suspect class. *Johnson v. State*, 2021 Ark. App. 256, 626 S.W.3d 451 (2021).

Defendant failed to prove that § 5-14-124(a)(1)(D) is not rationally related to achieving any legitimate governmental objective under any reasonably conceivable fact situation; the statutory classification of a school employee rationally advances the government’s legitimate interest in having a protected learning environment for students, and therefore defendant did not demonstrate an equal protection violation. *Johnson v. State*,

2021 Ark. App. 256, 626 S.W.3d 451 (2021).

Law’s classification is rationally related to the prevention of sexual relationships between employees and children; a legitimate purpose for § 5-14-124(a)(1)(D) is protecting minors from sex with adult employees of the school or school district that they attend. The law’s classification of school employees is rationally related to providing a protected learning environment for students. A minor’s status as a student is what implicates the governmental interest, so a minor’s legal capacity to consent is not determinative on whether the law is rational. *Johnson v. State*, 2021 Ark. App. 256, 626 S.W.3d 451 (2021).

State does not have to show exploitation under § 5-14-124(a)(1), which is a rational line to achieve the governmental purpose sought of a protected environment for minor children in schools, but the State must prove exploitation of adult students under § 5-14-124(a)(2). The statutory classification is clear enough and precise enough to pass constitutional scrutiny under a rational-basis standard of review. *Johnson v. State*, 2021 Ark. App. 256, 626 S.W.3d 451 (2021).

5-14-125. Sexual assault in the second degree.

RESEARCH REFERENCES

ALR. Privacy Rights of Child Victim of Crime in Legal Proceeding Under State Statute. 69 A.L.R.7th Art. 3 (2022).

CASE NOTES

ANALYSIS

Evidence.

—Sufficiency.

Jury Instructions.

Evidence.

—Sufficiency.

While the State did not prove second-degree sexual assault under subdivision (a)(6) of this section, which was cited in the amended information, the State sufficiently proved both charged offenses under subdivision (a)(3) of this section, the language of which was set forth in the amended information, by presenting evidence that, being 18 years or older, defendant engaged in sexual contact with another person who was less than 14 years of age and not his spouse. *Bynum v. State*, 2021 Ark. App. 298, 626 S.W.3d 154 (2021).

Evidence that defendant had acted in an inappropriately sexual manner toward the victims and their minor friends prior to groping them at the party, and that he supplied minors with alcohol and had repeatedly talked to them about sex was sufficient to support defendant's convictions for second-degree sexual assault. *DeJohn v. State*, 2021 Ark. App. 495, 638 S.W.3d 32 (2021).

Where juvenile was found guilty of second-degree sexual assault under subdivision (a)(5)(A) of this section, despite the trial court having found that the juvenile did not act for the purpose of sexual gratification, the trial court made an error of law by finding that there was "sexual contact" based on the presumption. The trial court's finding that sexual gratification was not proved effectively rebutted

the presumption as defined under the statute. *W.O. v. State*, 2022 Ark. App. 45, 640 S.W.3d 424 (2022).

Evidence was sufficient to convict defendant of rape and second-degree sexual assault because the victim, defendant's step-granddaughter, testified that defendant touched her breasts under her bra and penetrated her digitally and with his sexual organ; and a victim's testimony alone is sufficient and substantial evidence to support a rape or a second-degree sexual assault conviction. *McCormick v. State*, 2022 Ark. App. 259 (2022).

Evidence showed that defendant touched the victim on her legs and her private part between her legs, on her buttocks, and on her breast, witnesses both saw defendant grab the victim on her buttocks; and he admitted that it felt good to touch the victim's thigh, that he had feelings for her, and that he had wanted her to be his girlfriend; given the evidence presented, it could be assumed that the desire for sexual gratification was a plausible reason for defendant's actions. *PR v. State*, 2022 Ark. App. 270 (2022).

Jury Instructions.

Trial court did not abuse its discretion in giving the State's proposed jury instruction and in rejecting defendant's proposed instruction based on subdivision (a)(6) of this section (which was inapplicable to the case) because the criminal information, which cited subdivision (a)(6) of this section, also set forth the language of subdivision (a)(3) of this section, and the instruction given tracked the elements of that subdivision; and there was evidence to support the instruction based on the victims' testimony. *Bynum v. State*, 2021 Ark. App. 298, 626 S.W.3d 154 (2021).

5-14-126. Sexual assault in the third degree.

RESEARCH REFERENCES

ALR. Privacy Rights of Child Victim of Crime in Legal Proceeding Under State Statute. 69 A.L.R.7th Art. 3 (2022).

5-14-127. Sexual assault in the fourth degree.

RESEARCH REFERENCES

ALR. Privacy Rights of Child Victim of Crime in Legal Proceeding Under State Statute. 69 A.L.R.7th Art. 3 (2022).

SUBTITLE 3. OFFENSES INVOLVING FAMILIES, DEPENDENTS, ETC.

CHAPTER 26

OFFENSES INVOLVING THE FAMILY

SUBCHAPTER 3 — DOMESTIC BATTERING AND ASSAULT

5-26-302. Definitions.

RESEARCH REFERENCES

ALR. What Constitutes “Dating Relationship” for Purposes of Domestic Violence Laws. 66 A.L.R.7th Art. 5 (2021).

5-26-303. Domestic battering in the first degree.

RESEARCH REFERENCES

ALR. What Constitutes “Dating Relationship” for Purposes of Domestic Violence Laws. 66 A.L.R.7th Art. 5 (2021).

5-26-305. Domestic battering in the third degree.

RESEARCH REFERENCES

ALR. What Constitutes “Dating Relationship” for Purposes of Domestic Violence Laws. 66 A.L.R.7th Art. 5 (2021).

CASE NOTES

Evidence.

Defendant’s claim that the trial court erred in denying his motion to dismiss the domestic battery charge because the State failed to introduce substantial evidence he purposely caused physical injury to the victim failed; defendant could not demon-

strate prejudice from any alleged error by the circuit court because he faced the same sentencing range regardless of how the court determined he had committed the offense. *Jones v. State*, 2021 Ark. App. 329, 629 S.W.3d 1 (2021).

5-26-306. Aggravated assault on a family or household member.**CASE NOTES****Evidence.**

Evidence was sufficient to support defendant's conviction of aggravated assault on a family or household member, as the victim and the victim's daughter testified that defendant choked the victim, the vic-

tim stated that she could not breathe and believed she would lose consciousness, and a detective testified that the victim had red marks on her neck. *Marek v. State*, 2021 Ark. App. 447, 635 S.W.3d 785 (2021).

SUBCHAPTER 4 — NONSUPPORT**5-26-401. Nonsupport.****CASE NOTES****Evidence.**

Evidence was sufficient to find defendant guilty of nonsupport because he conceded that he had failed to comply with his monthly payment obligation and that he had made only a few payments totaling \$1,475 of the \$21,600 total obligation owed as of November 10, 2015; he testified that he had been employed at least some

of that same time, during which he was being paid approximately \$45,000 a year; and the trial court found that defendant's testimony as to his situation both in life and in employment was unpersuasive and lacking detailed credibility. *Kellybrew v. State*, 2022 Ark. App. 266, 646 S.W.3d 393 (2022).

CHAPTER 27**OFFENSES AGAINST CHILDREN OR INCOMPETENTS****SUBCHAPTER 6 — COMPUTER CRIMES AGAINST MINORS****5-27-602. Distributing, possessing, or viewing of matter depicting sexually explicit conduct involving a child.****CASE NOTES****Sentence.**

Pro se petitioner was properly denied habeas corpus relief because the two consecutive sentences of 240 months' imprisonment each for 10 counts and 19 counts of possession of matter depicting sexually explicit images of children did not exceed the maximum penalty for those offenses

as he was subject to a penalty of 120 months for each of the 29 separate counts of possessing those images under this section. Each photograph that is distributed in violation of this section can support a separate charge. *Osburn v. Gray*, 2022 Ark. 39, 639 S.W.3d 346 (2022).

SUBTITLE 4. OFFENSES AGAINST PROPERTY

CHAPTER 36

THEFT

SUBCHAPTER 1 — GENERAL PROVISIONS

5-36-103. Theft of property.

RESEARCH REFERENCES

ALR. Civil Liability for Diverting Funds Required Under State Statute to Be Held in Trust for Private Construction Project. 53 A.L.R.7th Art. 5 (2020).
Removal of Anti-theft Devices. 56 A.L.R.7th Art. 1 (2020).

CASE NOTES

ANALYSIS

Debit Card.
Evidence.
—Sufficiency.

Debit Card.

Circuit court properly sentenced defendant, as a habitual offender, to an aggregate term of 15 years’ imprisonment and fines totaling \$10,250 after a jury found him guilty of criminal trespass and theft of a debit card. Even though defendant contended the cards were prepaid cards and that there was insufficient proof they were “debit cards”, photos admitted into evidence showed that both cards at issue had the word “debit” clearly embossed on the front along with a 16-digit account

number and had the names and logos of the issuing financial institutions, and defendant told a police officer that he took a “debit card” from the victim. *Braswell v. State*, 2021 Ark. App. 356 (2021).

Evidence.

—Sufficiency.

Evidence was sufficient to sustain defendant’s conviction for theft because defendant lied about returning the truck and never returned it, and when an officer located the truck and attempted to make a traffic stop, defendant fled; after initially evading authorities, defendant abandoned the truck and attempted to hide. *Wright v. State*, 2022 Ark. 103, 644 S.W.3d 236 (2022).

5-36-106. Theft by receiving.

CASE NOTES

Knowledge and Intent.

Defendant’s theft-by-receiving charge was supported by substantial evidence because there was sufficient evidence for the jury to infer intent from the circumstances; defendant would not say from whom he borrowed the car, but it was from someone he at least felt the need to ask if

the car was stolen before driving it; that indicated that defendant had good reason to believe it was stolen, and defendant’s conversation indicated that he was not so much concerned if the car was stolen, but if it was *reported* stolen. *Allen v. State*, 2022 Ark. App. 110, 640 S.W.3d 446 (2022).

SUBCHAPTER 4 — OFFENSES INVOLVING THEFT DETECTION DEVICES**5-36-404. Unlawful removal of a theft detection device.****RESEARCH REFERENCES**

ALR. Removal of Anti-theft Devices. 56
A.L.R.7th Art. 1 (2020).

5-36-405. Detention upon activation of antishoplifting or inventory control device.**RESEARCH REFERENCES**

ALR. Removal of Anti-theft Devices. 56
A.L.R.7th Art. 1 (2020).

CHAPTER 37**FORGERY AND FRAUDULENT PRACTICES****SUBCHAPTER 3 — ARKANSAS HOT CHECK LAW****5-37-302. Unlawful acts.****CASE NOTES****Applicability.**

Defendant was improperly convicted of a violation of the Arkansas Hot Check Law (AHCL) because this section did not

apply when the check at issue was for a preexisting debt, which was excluded from the AHCL. *Bartlett v. State*, 2022 Ark. App. 285 (2022).

CHAPTER 39**BURGLARY, TRESPASS, AND OTHER INTRUSIONS****SUBCHAPTER 2 — OFFENSES GENERALLY****5-39-203. Criminal trespass.****CASE NOTES****Evidence.**

Circuit court properly sentenced defendant, as a habitual offender, to an aggregate term of 15 years' imprisonment and fines totaling \$10,250 after a jury found him guilty of criminal trespass and theft

of a debit card. The jury could have reasonably concluded without resorting to speculation that he purposely entered or remained unlawfully in the victim's home. *Braswell v. State*, 2021 Ark. App. 356 (2021).

***SUBTITLE 5. OFFENSES AGAINST THE
ADMINISTRATION OF GOVERNMENT***

**CHAPTER 51
DISLOYAL CONDUCT**

SUBCHAPTER 2 — OFFENSES GENERALLY

5-51-201. Treason.

RESEARCH REFERENCES

ALR. Criminal Prosecution for Treason and Seditious Conspiracy — Federal Appellate Cases. 67 A.L.R. Fed. 3d Art. 13 (2022).

**CHAPTER 53
OFFENSES RELATING TO JUDICIAL AND OTHER
OFFICIAL PROCEEDINGS**

SUBCHAPTER 1 — GENERAL PROVISIONS

5-53-115. Jury tampering.

RESEARCH REFERENCES

ALR. Jury Tampering Involving Distribution of Written Materials to Jurors. 56 A.L.R.7th Art. 5 (2020).

**CHAPTER 54
OBSTRUCTING GOVERNMENTAL OPERATIONS**

SUBCHAPTER 1 — GENERAL PROVISIONS

**5-54-119. Furnishing, possessing, or using prohibited articles —
Delivering a prohibited article.**

RESEARCH REFERENCES

ALR. Possession of Cell Phone, or Similar Device, by Prison Inmate — State Cases. 66 A.L.R.7th Art. 6 (2021).

***SUBTITLE 6. OFFENSES AGAINST PUBLIC HEALTH,
SAFETY, OR WELFARE***

CHAPTER 62

ANIMALS

SUBCHAPTER 1 — GENERAL PROVISIONS

5-62-106. Disposition of animal.

CASE NOTES

Damages.

Defendant was not entitled to recover damages from the State when defendant sought the return of her 31 seized dogs after the animal cruelty charges against her were dismissed on speedy trial grounds; the statutory procedures were not followed—the dogs were placed in foster homes, over two years elapsed before defendant filed the motion for their return, and a final order was not entered

until over five years after the seizure, and there was no indication that defendant posted a bond—and an award of damages to defendant was not statutorily provided. Further, the county was not a party in the action (which was a criminal action), and the circuit court was without jurisdiction to provide the relief sought; and defendant's constitutional arguments were moot. *Siegel v. State*, 2021 Ark. 228, 635 S.W.3d 313 (2021).

CHAPTER 64

CONTROLLED SUBSTANCES

**SUBCHAPTER 4 — UNIFORM CONTROLLED SUBSTANCES ACT — PROHIBITIONS
AND PENALTIES**

**5-64-420. Possession of methamphetamine, heroin, or cocaine
with the purpose to deliver.**

CASE NOTES

Evidence Sufficient.

Because defendant did not specify the deficiency in the State's proof, he did not preserve his sufficiency challenge for appellate review. However, even if defendant had preserved his argument, two officers testified that defendant admitted he was selling the methamphetamine for a man in Clarksville. *Staggs v. State*, 2021 Ark. App. 259 (2021).

Substantial evidence supported the

jury's decision to convict defendant of possession of methamphetamine with purpose to deliver because there was evidence of scales and baggies consistent with the requirements in subdivisions (a)(1) and (a)(3) of this section and a crime lab chemist testified that the evidence collected contained methamphetamine. *Moye v. State*, 2022 Ark. App. 272, 645 S.W.3d 50 (2022) (no-merit brief).

5-64-436. Possession of a Schedule VI controlled substance with the purpose to deliver.

CASE NOTES

Evidence Sufficient.

Substantial evidence supported the jury's decision to convict defendant of two counts of possession of marijuana with purpose to deliver because the officer found preweighed bags of marijuana,

clear baggies, and scales, and a crime lab chemist testified that the evidence collected contained marijuana. *Moye v. State*, 2022 Ark. App. 272, 645 S.W.3d 50 (2022) (no-merit brief).

5-64-443. Possession of drug paraphernalia.

CASE NOTES

Evidence Sufficient.

Evidence was sufficient to sustain defendant's conviction for possession of drug paraphernalia because defendant was

alone in a car with bags of drugs under his seat. *Allen v. State*, 2022 Ark. App. 110, 640 S.W.3d 446 (2022).

SUBCHAPTER 5 — UNIFORM CONTROLLED SUBSTANCES ACT — ENFORCEMENT AND ADMINISTRATION

5-64-505. Property subject to forfeiture — Procedure — Disposition of property.

CASE NOTES

Requirements.

Appellant's claim that the forfeiture statutes required conviction of a state crime was improper, as the plain language

of subdivision (m)(1) of this section made no distinction between federal or state convictions. *Herrod v. State*, 2022 Ark. App. 107, 641 S.W.3d 89 (2022).

CHAPTER 65

DRIVING OR BOATING WHILE INTOXICATED

SUBCHAPTER 2 — CHEMICAL ANALYSIS OF BODY SUBSTANCES

5-65-202. Implied consent.

RESEARCH REFERENCES

ALR. Driving While Intoxicated: Duty of Law Enforcement Officer to Advise Suspect of Their Rights Under Implied Con-

sent Law, Including Offers of Test Alternatives. 51 A.L.R.7th Art. 2 (2020).

5-65-203. Administration of a chemical test.**RESEARCH REFERENCES**

ALR. Driving While Intoxicated: Duty of Law Enforcement Officer to Advise Suspect of Their Rights Under Implied Consent Law, Including Offers of Test Alternatives. 51 A.L.R.7th Art. 2 (2020).

5-65-205. Refusal to submit to a chemical test.**RESEARCH REFERENCES**

ALR. Driving While Intoxicated: Duty of Law Enforcement Officer to Advise Suspect of Their Rights Under Implied Consent Law, Including Offers of Test Alternatives. 51 A.L.R.7th Art. 2 (2020).

CHAPTER 71**RIOTS, DISORDERLY CONDUCT, ETC.****SUBCHAPTER 2 — OFFENSES GENERALLY****5-71-201. Riot.****RESEARCH REFERENCES**

ALR. Federal Anti-Riot Act of 1968 (18 U.S.C. §§ 2101, 2102). 50 A.L.R. Fed. 3d Art. 4 (2020).

5-71-203. Inciting riot.**RESEARCH REFERENCES**

ALR. Federal Anti-Riot Act of 1968 (18 U.S.C. §§ 2101, 2102). 50 A.L.R. Fed. 3d Art. 4 (2020).

5-71-207. Disorderly conduct.**RESEARCH REFERENCES**

ALR. “Fighting Words” Supporting Charges Under State Disorderly Conduct Laws. 72 A.L.R.7th Art. 2 (2022).
Disorderly Conduct on School Property — State Cases. 72 A.L.R.7th Art. 5 (2022).

CHAPTER 74

GANGS

SUBCHAPTER 1 — ARKANSAS CRIMINAL GANG, ORGANIZATION, OR ENTERPRISE ACT

5-74-103. Definitions.

CASE NOTES

Crime of Violence.

Circuit court did not abuse its discretion when it dismissed the inmate's declaratory judgment action challenging the determination of his parole eligibility by officials with the Department of Corrections because § 16-93-609 was not ambiguous in that it clearly included a violation of § 5-74-107 in its definition of a prior violent felony (by reference to § 5-4-

501). The statutes cited by defendant were harmonic because §§ 5-74-103(2) and 5-74-107(b), which define "crime of violence" differently, are criminal statutes, while § 16-93-609 relates to punishment and when an executive agency is limited in how it applies its discretion related to parole eligibility. *Husia Harkuf v. Marony*, 2022 Ark. 55, 639 S.W.3d 872 (2022).

5-74-104. Engaging in a continuing criminal gang, organization, or enterprise.

RESEARCH REFERENCES

ALR. Intracorporate Conspiracy Doctrine — RICO Conspiracy Cases. 66 A.L.R. Fed. 3d Art. 1 (2021).

5-74-106. Simultaneous possession of drugs and firearms.

CASE NOTES

Defense.

Defense in this section was not available to defendant because he was not in his house when the police discovered the firearm, as he had exited his house through a window; the appellate court rejected defendant's argument that the issue should not be whether defendant

was in his home when the police found the firearm but rather, the issue should be whether defendant was in his home when the felony drug offense and firearm possession were alleged to be simultaneous. *Still v. State*, 2022 Ark. App. 156, 643 S.W.3d 830 (2022).

5-74-107. Unlawful discharge of a firearm from a vehicle.

CASE NOTES

Parole Eligibility.

Circuit court did not abuse its discretion

when it dismissed the inmate's declaratory judgment action challenging the de-

termination of his parole eligibility by officials with the Department of Corrections because § 16-93-609 was not ambiguous in that it clearly included a violation of § 5-74-107 in its definition of a prior violent felony (by reference to § 5-4-501). The statutes cited by defendant were harmonic because §§ 5-74-103(2) and

5-74-107(b), which define “crime of violence” differently, are criminal statutes, while § 16-93-609 relates to punishment and when an executive agency is limited in how it applies its discretion related to parole eligibility. *Husia Harkuf v. Marony*, 2022 Ark. 55, 639 S.W.3d 872 (2022).

5-74-108. Engaging in violent criminal group activity.

RESEARCH REFERENCES

ALR. Intracorporate Conspiracy Doctrine — RICO Conspiracy Cases. 66 A.L.R. Fed. 3d Art. 1 (2021).

5-74-109. Premises and real property used by criminal gangs, organizations, or enterprises, or used by anyone in committing a continuing series of violations — Civil remedies.

RESEARCH REFERENCES

ALR. Intracorporate Conspiracy Doctrine — RICO Conspiracy Cases. 66 A.L.R. Fed. 3d Art. 1 (2021).

TITLE 6

EDUCATION

SUBTITLE 2. ELEMENTARY AND SECONDARY EDUCATION GENERALLY

CHAPTER.

- 10. GENERAL PROVISIONS.
- 17. PERSONNEL.
- 20. FINANCES.

SUBTITLE 5. POSTSECONDARY AND HIGHER EDUCATION GENERALLY

CHAPTER.

- 65. AGRICULTURAL COLLEGES.

**SUBTITLE 2. ELEMENTARY AND SECONDARY
EDUCATION GENERALLY**

CHAPTER 10

GENERAL PROVISIONS

SECTION.

6-10-106. Uniform dates for beginning
and end of school year —
Definition.

Effective Dates. Acts 2022, No. 217,
§ 37: July 1, 2022.

**6-10-106. Uniform dates for beginning and end of school year —
Definition.**

(a)(1)(A) Beginning with the 2023-2024 school year, the first day of the school year for student attendance in public elementary and secondary schools shall not be earlier than the Monday two (2) weeks before Labor Day.

(B) The date for beginning the school year shall be determined by the board of directors of each school district in accordance with subdivision (a)(1)(A) of this section.

(C) Labor Day shall be celebrated as a school holiday in all the school districts of the state, and school shall not be held on that date.

(D) As used in this section, “week” means a seven-day period that begins on a Sunday and ends on a Saturday.

(2)(A) The Division of Elementary and Secondary Education may grant a school district a waiver to begin school on a later date if the division determines that there exists a material and substantial reason for the school district to begin school on a later date due to very exceptional or emergency circumstances such as a contagious disease outbreak, inclement weather, or other acts of God.

(B) The division shall not grant a public school district a waiver under § 6-15-103 to begin school on an earlier date.

(b) Contracts of employment for employees in licensed personnel positions and employees in nonlicensed personnel positions of school districts may require school district employees to begin performance under their contract of employment before the first day of student attendance.

(c)(1) If the school year in any school district extends beyond the date observed as Memorial Day, such date shall be a holiday in the school district.

(2) Provided, upon approval of the division, this date may be used as a make-up day in any school district which has unavoidably lost more than five (5) scheduled days of student attendance during the course of the school year due to contagious disease outbreaks, inclement weather, or other acts of God.

(d)(1) A public school district that provides a week-long holiday for spring break shall schedule the spring break holiday for five (5) consecutive school days beginning on the Monday of the thirty-eighth week of the school year.

(2) The thirty-eighth week of the school year shall be calculated by counting as week one the first week in July that begins on a Sunday.

(3) Nothing in this subsection shall prevent a public school district from providing fewer than five (5) consecutive school days for the spring break holiday to comply with the division's requirement for a minimum number of days for student attendance under the Standards for Accreditation of Arkansas Public Schools and School Districts.

(e) The division shall not grant a waiver from the requirements of this section unless this section specifically authorizes the waiver.

(f) Except as provided under subsection (g) of this section, a school district shall adopt an academic calendar that includes five (5) make-up days, in addition to the number of student-teacher interaction days required by the Standards for Accreditation of Arkansas Public Schools and School Districts established by the State Board of Education, for days unavoidably lost due to exceptional or emergency circumstances resulting from a contagious disease outbreak, inclement weather, or other acts of God.

(g)(1) Beginning with the 2022-2023 school year, a public school district board of directors may elect to implement an alternate school calendar.

(2)(A) An alternate school calendar implemented under subdivision (g)(1) of this section shall consist of:

(i) At least one thousand sixty-eight (1,068) hours of instructional time; and

(ii)(a) At least thirty (30) make-up hours, in addition to the number of hours required of instructional time, for days unavoidably lost due to exceptional or emergency circumstances resulting from inclement weather.

(b) If additional make-up hours are needed, the public school district board of directors shall modify its alternate school calendar to include make-up hours for the additional hours needed.

(B) However, there shall not be a minimum number of school days required to meet the required one thousand sixty-eight (1,068) hours of instructional time.

(3) A public school district board of directors that elects to implement an alternate school calendar under subdivision (g)(1) of this section shall:

(A) Notify the division by July 1 of each year that the public school district intends to implement the alternate school calendar;

(B) Post the alternate school calendar on the public school district's website by August 1 of each year that the public school district intends to implement the alternate school calendar;

(C) Input into eSchool, eFinance, or the Arkansas Public School Computer Network all data that:

(i) Affects the average daily membership of the public school district; and

(ii) Ensures compliance with the required minimum number of school instructional hours under subdivision (g)(2)(A)(i) of this section; and

(D)(i) Not be eligible for the use of alternative methods of instruction granted under § 6-10-127.

(ii) However, a public school district that implements an alternate school calendar under subdivision (g)(1) of this section may submit an application to operate a virtual learning option.

(4) The total number of instructional hours under an alternate school calendar shall be converted to school days for purposes of the:

(A) Number of days required in a teacher employment basic contract under § 6-17-2402(1);

(B) Number of days counted during the official reporting period for attendance under § 6-18-213(b)(1); and

(C) Average daily membership calculated under § 6-20-2303(3).

(5) The division may promulgate rules as necessary to administer this section.

History. Acts 1983 (1st Ex. Sess.), No. 6, §§ 1, 2; A.S.A. 1947, §§ 80-1506.1, 80-1506.2; Acts 1989, No. 461, § 1; 1993, No. 103, § 1; 2009, No. 424, § 1; 2009, No. 1469, § 1; 2011, No. 46, § 1; 2011, No. 65, § 1; 2013, No. 75, § 1; 2013, No. 1073, § 1; 2013, No. 1138, § 2; 2019, No. 910,

§§ 1072-1075; 2021, No. 688, §§ 1-3; 2022, No. 217, § 34.

Amendments. The 2022 amendment substituted "2023-2024" for "2022-2023" in (a)(1)(A).

Effective Dates. Acts 2022, No. 217, § 37; July 1, 2022.

CHAPTER 13

SCHOOL DISTRICTS

SUBCHAPTER 6 — SCHOOL DISTRICT BOARDS OF DIRECTORS GENERALLY

6-13-620. Powers and duties.

CASE NOTES

Mask Mandates.

In a dispute over a school district's mask mandate, the Supreme Court of Arkansas reversed the circuit court's decision granting the parents' motion for a temporary restraining order (TRO) because the school district had the authority to promulgate its policy which did not

violate the parents' fundamental right to care for their children. Subdivision (11) of this section authorizes the school district to provide a general, suitable, and efficient system of free public schools; and § 6-15-1005(a)(1) provides that schools must have safe and functional facilities; therefore, the parents were not entitled to

a TRO, because they failed to demonstrate a likelihood of success on the merits of their challenge to the mask mandate.

Bentonville Sch. Dist. v. Sitton, 2022 Ark. 80, 643 S.W.3d 763 (2022).

CHAPTER 15

EDUCATIONAL STANDARDS AND QUALITY GENERALLY

SUBCHAPTER 10 — ARKANSAS PUBLIC EDUCATION ACT OF 1997

6-15-1005. Safe, equitable, and accountable public schools.

CASE NOTES

Mask Mandates.

In a dispute over a school district's mask mandate, the Supreme Court of Arkansas reversed the circuit court's decision granting the parents' motion for a temporary restraining order (TRO) because the school district had the authority to promulgate its policy which did not violate the parents' fundamental right to care for their children. Section 6-13-620(11) authorizes the school district to

provide a general, suitable, and efficient system of free public schools, and subdivision (a)(1) of this section provides that schools must have safe and functional facilities; therefore, the parents were not entitled to a TRO, because they failed to demonstrate a likelihood of success on the merits of their challenge to the mask mandate. *Bentonville Sch. Dist. v. Sitton*, 2022 Ark. 80, 643 S.W.3d 763 (2022).

CHAPTER 17

PERSONNEL

SUBCHAPTER.

4. LICENSURE GENERALLY.

11. INSURANCE.

SUBCHAPTER 4 — LICENSURE GENERALLY

SECTION.

6-17-414. Criminal records check as condition for initial employment of nonlicensed personnel — Definitions.

6-17-414. Criminal records check as condition for initial employment of nonlicensed personnel — Definitions.

(a)(1)(A)(i) Except as provided in subdivision (a)(1)(C) of this section, the board of directors of an educational entity shall require as a condition for initial employment or noncontinuous reemployment in a nonlicensed staff position any person making application to apply to the Identification Bureau of the Division of Arkansas State Police for statewide and nationwide criminal records checks, the latter to be conducted by the Federal Bureau of Investigation.

(ii) The checks shall conform to the applicable federal standards and shall include the taking of fingerprints as required under § 6-17-417.

(iii) The Identification Bureau of the Division of Arkansas State Police and the Federal Bureau of Investigation may maintain these fingerprints in the automated fingerprint identification system.

(B)(i) The person shall sign a release of information to the Division of Elementary and Secondary Education.

(ii) Unless the employing educational entity's board of directors has taken action to pay for the cost of criminal background checks required by this section, the employment applicant shall be responsible for the payment of any fee associated with the criminal records checks.

(C)(i) The board of directors of a school district created by consolidation, annexation, or detachment may waive the requirements under subdivisions (a)(1)(A) and (B) of this section for personnel who were employed by an affected district immediately before the annexation, consolidation, or detachment and who had complete criminal background checks conducted as a condition of the person's most recent employment with the affected district as required under this section.

(ii) As used in subdivision (a)(1)(C)(i) of this section, "affected district" means a school district that loses territory or students as a result of annexation, consolidation, or detachment.

(2)(A) Upon completion of the criminal records check, the Identification Bureau of the Division of Arkansas State Police shall forward all releasable information obtained concerning the person to the Division of Elementary and Secondary Education, which shall promptly inform the board of directors of the educational entity whether or not the applicant is eligible for employment as provided by subsection (b) of this section.

(B) A sealed, expunged, or pardoned conviction shall not disqualify a person under this section if the conviction does not involve the physical or sexual injury, mistreatment, or abuse of another.

(3)(A) The board of directors of an educational entity shall require as a condition for initial employment or noncontinuous reemployment of all nonlicensed personnel a Child Maltreatment Central Registry check by the Department of Human Services.

(B) The applicant shall sign a release of information to the Division of Elementary and Secondary Education and shall be responsible for the payment of any fee associated with the Child Maltreatment Central Registry check.

(C) The Department of Human Services shall forward all releasable information concerning the applicant to the Division of Elementary and Secondary Education upon completion of the Child Maltreatment Central Registry check.

(b) A person, including without limitation nonlicensed persons who provide services as a substitute teacher, shall not be eligible for

employment, whether initial employment, reemployment, or continued employment, by an educational entity in a nonlicensed staff position if the person has a true report in the Child Maltreatment Central Registry or has pled guilty or nolo contendere to or has been found guilty of any of the following offenses by a court in the State of Arkansas or of any similar offense by a court in another state or by a federal court:

- (1) Capital murder as prohibited in § 5-10-101;
- (2) Murder in the first degree as prohibited in § 5-10-102 and murder in the second degree as prohibited in § 5-10-103;
- (3) Manslaughter as prohibited in § 5-10-104;
- (4) Battery in the first degree as prohibited in § 5-13-201 and battery in the second degree as prohibited in § 5-13-202;
- (5) Aggravated assault as prohibited in § 5-13-204, and assault in the first degree as prohibited by § 5-13-205;
- (6) Terroristic threatening in the first degree as prohibited in § 5-13-301;
- (7) Kidnapping as prohibited in § 5-11-102;
- (8) Rape as prohibited in § 5-14-103;
- (9) Sexual assault in the first degree, second degree, third degree, and fourth degree as prohibited in §§ 5-14-124 — 5-14-127;
- (10) Incest as prohibited in § 5-26-202;
- (11) A violation of the Arkansas Protection of Children Against Exploitation Act of 1979, § 5-27-301 et seq., or the use of a child in a sexual performance as prohibited by §§ 5-27-402 and 5-27-403;
- (12) Distribution to minors as prohibited in § 5-64-406;
- (13) Any felony in violation of the Uniform Controlled Substances Act, § 5-64-101 et seq.;
- (14) Criminal attempt, criminal solicitation, or criminal conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection;
- (15) Sexual indecency with a child as prohibited in § 5-14-110;
- (16) Endangering the welfare of a minor in the first degree as prohibited in § 5-27-205, or endangering the welfare of a minor in the second degree as prohibited by § 5-27-206;
- (17) False imprisonment in the first degree as prohibited in § 5-11-103;
- (18) Permanent detention or restraint as prohibited in § 5-11-106;
- (19) Permitting abuse of a child as prohibited in § 5-27-221(a);
- (20) Negligent homicide as prohibited by § 5-10-105(a);
- (21) Coercion as prohibited by § 5-13-208;
- (22) Public sexual indecency as prohibited by § 5-14-111;
- (23) Indecent exposure as prohibited by § 5-14-112;
- (24) Computer child pornography as prohibited in § 5-27-603;
- (25) Computer exploitation of a child in the first degree as prohibited in § 5-27-605;
- (26) Felony theft as prohibited in §§ 5-36-103 — 5-36-106 and 5-36-202;
- (27) Robbery as prohibited by §§ 5-12-102 and 5-12-103;

- (28) Breaking or entering as prohibited by § 5-39-202;
- (29) Burglary as prohibited by § 5-39-201 and aggravated residential burglary as prohibited by § 5-39-204;
- (30) Forgery as prohibited by § 5-37-201;
- (31) Video voyeurism as prohibited by § 5-16-101, and voyeurism as prohibited under § 5-16-102;
- (32) Domestic battering in the first degree as prohibited by § 5-26-303;
- (33) Domestic battering in the second degree as prohibited by § 5-26-304;
- (34) Felony violation of an order of protection as prohibited by § 5-53-134;
- (35) Prostitution as prohibited by § 5-70-102;
- (36) Sexual solicitation as prohibited by § 5-70-103;
- (37) Promoting prostitution in the first degree as prohibited by § 5-70-104;
- (38) Promoting prostitution in the second degree as prohibited by § 5-70-105;
- (39) Stalking as prohibited by § 5-71-229;
- (40) Failure to notify by a mandated reporter in the first degree as prohibited by § 12-18-201;
- (41) Any felony not listed in this subsection and involving physical or sexual injury, mistreatment, or abuse against another person;
- (42) Aggravated assault upon a law enforcement officer or an employee of a correctional facility, § 5-13-211, if a Class Y felony;
- (43) Sexual extortion, § 5-14-113;
- (44) Failure to comply with the registration and reporting requirements of § 12-12-904;
- (45) Trafficking of a person as prohibited by § 5-18-103;
- (46) Patronizing a victim of human trafficking as prohibited by § 5-18-104;
- (47) Aggravated assault on a family member or household member as prohibited member as prohibited by § 5-26-306; and
- (48) Computer crimes against a minor as prohibited by § 5-27-601 et seq.

(c) However, the board of directors of an educational entity is authorized to offer provisional employment to an applicant pending notification of eligibility information from the Division of Elementary and Secondary Education, which may be provided in an electronic format.

(d)(1) Any information received by the Division of Elementary and Secondary Education from the Identification Bureau of the Division of Arkansas State Police or the department pursuant to this section shall not be available for examination except by the affected applicant for employment or his or her duly authorized representative, and no record, file, or document shall be removed from the custody of the Division of Elementary and Secondary Education.

(2) Any information made available to the affected applicant for employment shall be information pertaining to that applicant only.

(3) Rights of privilege and confidentiality established under this section shall not extend to any document created for purposes other than this background check.

(e) The State Board of Education shall determine that an applicant for employment with an educational entity in a nonlicensed staff position is ineligible for employment if the applicant:

(1) Is required to pass an examination as a requirement of his or her position and the applicant's completed examination test score was declared invalid because of the applicant's improper conduct;

(2) Has a sealed, an expunged, or a pardoned conviction for any sexual or physical abuse offense committed against a child or any offense listed in subsection (b) of this section;

(3) Is subject to the provisions of § 12-12-905;

(4) Knowingly submits or provides false or misleading information or knowingly fails to submit or provide information requested or required by law to the Division of Elementary and Secondary Education, the state board, or Arkansas Legislative Audit;

(5) Knowingly falsifies or directs another to falsify any grade given to a student, whether the grade was given for an individual assignment or examination or at the conclusion of a regular grading period;

(6) Has a true report in the Child Maltreatment Central Registry; or

(7) Has an involuntary commitment for a physical or mental illness that endangers the health, safety, welfare, or education of a student, as determined by a licensed health professional, until the person provides documentation from a licensed health professional of treatment of the physical or mental illness and the person's current fitness.

(f)(1) The superintendent or director of an educational entity or a third party vendor shall report to the state board the name of any person currently employed by the educational entity who:

(A) Has pleaded guilty or nolo contendere to or has been found guilty of a felony or any misdemeanor listed in subsection (b) of this section;

(B) Has intentionally compromised the validity or security of any student test or testing program administered or required by the Division of Elementary and Secondary Education;

(C) Has knowingly submitted falsified information or failed to submit information requested or required by law to the Division of Elementary and Secondary Education, the state board, or Arkansas Legislative Audit; or

(D) Has a true report in the Child Maltreatment Central Registry.

(2) The failure of a superintendent or director to report information as required by this subsection may result in sanctions imposed by the state board.

(g)(1)(A) The board of directors of an educational entity shall provide a written notice to an applicant and shall afford the applicant the opportunity to request a waiver if the applicant for a nonlicensed staff position has been determined ineligible for employment because the applicant:

(i) Has a true report in the Child Maltreatment Central Registry;
or

(ii) Has pled guilty or nolo contendere to, has been found guilty of, or has an expunged or a pardoned conviction for a sexual or physical abuse offense committed against a child or an offense listed in subsection (b) of this section.

(B) If the applicant under this subsection is contracted through an outside vendor, the educational entity may afford the applicant the opportunity to request a waiver.

(2) The waiver shall be requested no more than thirty (30) days after receipt of the notice of the denial of employment.

(3) The waiver may be requested by:

(A) The hiring official;

(B) The affected applicant; or

(C) The person subject to dismissal.

(4) Circumstances for which a waiver may be granted shall include without limitation the following:

(A) The age at which the incident was committed;

(B) The circumstances surrounding the incident;

(C) The length of time since the incident;

(D) Subsequent work history;

(E) Employment references;

(F) Character references; and

(G) Other evidence demonstrating that the applicant does not pose a threat to the health or safety of school children or school personnel.

(5)(A) The board of directors of the educational entity may grant the waiver by adoption of a written resolution identifying the applicant by name and listing the specific facts and circumstances for which the waiver is being granted.

(B) After adopting a resolution granting a waiver, the board of directors of an educational entity shall immediately provide a copy of the resolution and waiver request to the Division of Elementary and Secondary Education.

(C) The resolution and waiver request are public records subject to the provisions of the Freedom of Information Act of 1967, § 25-19-101 et seq.

(6) A waiver request may be discussed and acted upon by the board of directors of an educational entity only in an open public meeting and not in an executive session.

(h) As used in this section:

(1) "Educational entity" means:

(A) The Division of Elementary and Secondary Education; or

(B) An entity that is identified by the Division of Elementary and Secondary Education as a local education agency, except that for a public school operated by a school district the school district is the educational entity; and

(2) "Nonlicensed staff position" includes a:

(A) Parental monitor on a school bus as permitted under § 6-19-127;

(B) Staff person for which the nonlicensed person is either paid directly by the educational entity or by an outside vendor under contract with the educational entity to staff the position; and

(C) Designated employee position with the Division of Elementary and Secondary Education.

(i) The state board shall adopt the necessary rules to implement this section.

History. Acts 1997, No. 1314, § 1; 2003, No. 42, § 2; 2003, No. 1087, § 10; 2003, No. 1387, § 1; 2003 (2nd Ex. Sess.), No. 103, § 1; 2005, No. 2151, § 7; 2007, No. 823, § 1; 2007, No. 1573, § 24; 2009, No. 376, § 25; 2009, No. 1173, §§ 13-17; 2011, No. 984, § 2; 2013, No. 455, § 3; 2015, No. 1089, §§ 8-11; 2015, No. 1263, § 21; 2017, No. 367, § 8; 2017, No. 664, § 4; 2017, No. 746, §§ 5-9; 2019, No. 536, §§ 5-9; 2019, No. 910, §§ 1405-1414.

Publisher's Notes. This section is being set out to correct an error in (i) in the 2021 Replacement Volume.

SUBCHAPTER 11 — INSURANCE

SECTION.

6-17-1117. Health insurance.

Effective Dates. Acts 2022, No. 111, § 7: Mar. 1, 2022. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the State and Public School Life and Health Insurance Program is inadequate to provide sustainable affordable health benefits for public school employees and state employees; that an urgent need exists to address the state's funding and administration of benefits for public school employees and state employees in order for the program to remain viable and to avoid severe financial hardship to plan participants; and that this act is immediately necessary to provide afford-

able health benefit options in a timely manner to the state's public school employees participating in the program and state employees participating in the program. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-17-1117. Health insurance.

(a) Beginning January 1, 2023, a school district shall pay the health insurance contribution rate established by the House Committee on Education and the Senate Committee on Education through the biennial adequacy review process required by § 10-3-2102 each month for each eligible employee electing to participate in the public school employees' health insurance program.

(b)(1) The Division of Elementary and Secondary Education shall pay the Employee Benefits Division the amount established by the House Committee on Education and the Senate Committee on Educa-

tion through the biennial adequacy review process required by § 10-3-2102, factored according to the medical component of the Consumer Price Index for All Urban Consumers, for each eligible employee electing to participate in the public school employees' health insurance program administered by the State Board of Finance.

(2) The funds provided to the Employee Benefits Division under this subsection shall be administered by the board for the benefit of the employee participants of the public school employees' health insurance program.

(3)(A) In the event that appropriation or funding is not provided, the Division of Elementary and Secondary Education shall not be responsible for the increased payments for the public school employees' health insurance program as established by this section.

(B) If funding and appropriation are provided but are inadequate for the total number of employees electing to participate in the public school employees' health insurance program, the Division of Elementary and Secondary Education shall pay a proportional share on behalf of each participant.

(C) If funding and appropriation are provided and exceed the amount needed to make the minimum contribution under subdivision (b)(1) of this section, the Division of Elementary and Secondary Education shall pay a proportional share of the excess on behalf of each participant.

(c)(1) A school district shall:

(A) Provide the same employer-provided health insurance benefits for all full-time school district employees; and

(B) Pay the same employer contribution rate for each eligible employee electing to participate in the public school employees' health insurance program.

(2) If a school district entered into a contract with a superintendent, teacher, or other employee before April 11, 2006, and the contract provides for a higher employer contribution rate than is paid for a majority of the licensed personnel in the school district, then the school district may continue to pay the higher contribution rate as provided under the existing contract but not under extensions, addendums, or new contracts created after April 11, 2006, without increasing all other employees to the same rate.

(3) Any school district that entered into contracts with classified personnel before July 31, 2007, and the contracts provided for a higher employer contribution funding amount than is paid for licensed personnel in the school district shall freeze the employer contribution funding amount for classified employees until such time as the funding amount contributed for licensed personnel equals or exceeds the funding amount provided for classified employees.

History. Acts 1995, No. 1194, § 14; § 28; 2007, No. 306, § 1; 2007, No. 1009, 2001, No. 1745, § 1; 2005, No. 1842, § 1; § 18; 2007, No. 1420, § 32; 2013, No. 517, 2006 (1st Ex. Sess.), No. 24, § 1; 2006 (1st § 1; 2013, No. 1138, § 39; 2015, No. 995, Ex. Sess.), No. 25, § 1; 2007, No. 229, § 1; 2017, No. 298, § 1; 2017, No. 741,

§§ 2, 3; 2019, No. 910, § 1471; 2021, No. 621, §§ 1, 2; 2021, No. 1004, § 4; 2022, No. 111, §§ 2-4.

A.C.R.C. Notes. Acts 2022, No. 111, § 1, provided: "Legislative Findings. The General Assembly finds that:

"(1) It is vital that the State and Public School Life and Health Insurance Program remain solvent;

"(2) It is the responsibility of the House Committee on Education and the Senate Committee on Education, through the biennial adequacy review process required under § 10-3-2102, to determine the health insurance contribution rate to be

paid by each public school district each month for each eligible employee electing to participate in the public school employees' health insurance program; and

"(3) In order to determine the contribution rate, the House Committee on Education and the Senate Committee on Education shall review the amount of funding provided through the matrix and state appropriation for public school employee health insurance."

Amendments. The 2022 amendment rewrote (a) and (b)(1); and deleted "(A)" following "(b)(1)" in (b)(3)(C).

CHAPTER 20

FINANCES

SUBCHAPTER.

23. PUBLIC SCHOOL FUNDING ACT OF 2003.

25. ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES FUNDING ACT.

SUBCHAPTER 23 — PUBLIC SCHOOL FUNDING ACT OF 2003

SECTION.

6-20-2305. School funding.

Effective Dates. Acts 2022, No. 111, § 7: Mar. 1, 2022. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the State and Public School Life and Health Insurance Program is inadequate to provide sustainable affordable health benefits for public school employees and state employees; that an urgent need exists to address the state's funding and administration of benefits for public school employees and state employees in order for the program to remain viable and to avoid severe financial hardship to plan participants; and that this act is immediately necessary to provide afford-

able health benefit options in a timely manner to the state's public school employees participating in the program and state employees participating in the program. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-20-2305. School funding.

(a)(1)(A) For each school year, each school district shall receive state foundation funding aid computed as the foundation funding amount under subdivision (a)(2) of this section less the sum of:

(i) Ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district; and

(ii) An amount of miscellaneous funds of the school district calculated under § 6-20-2308.

(B) The Division of Elementary and Secondary Education shall distribute state foundation funding aid to each school district in twelve (12) monthly payments.

(2)(A) For the 2021-2022 school year, the foundation funding amount is equal to seven thousand one hundred eighty-two dollars (\$7,182) multiplied by the school district's average daily membership for the previous school year.

(B) For the 2022-2023 school year and each school year thereafter, the foundation funding amount is equal to seven thousand four hundred thirteen dollars (\$7,413) multiplied by the school district's average daily membership for the previous school year.

(3)(A) A school district that has experienced a decline in average daily membership over the two (2) immediately preceding school years shall receive:

(i) Declining enrollment funding equal to the difference between the average of the two (2) immediately preceding years' average daily memberships and the average daily membership for the previous school year multiplied by the amount of foundation funding set forth in subdivision (a)(2) of this section; and

(ii) Special needs isolated funding under § 6-20-604.

(B) Any funding appropriated and available for declining enrollment funding under subdivision (a)(3)(A)(i) of this section or special needs isolated funding under § 6-20-604 that is not distributed under subdivision (a)(3)(A) of this section shall be prorated and distributed equally per average lost student to school districts that meet the qualifications for both declining enrollment funding under subdivision (a)(3)(A)(i) of this section and special needs isolated funding under § 6-20-604.

(C) No school district shall receive both declining enrollment funding under subdivision (a)(3)(A)(i) of this section and student growth funding under subsection (c) of this section.

(4)(A)(i) Except as provided in subdivisions (a)(4)(C) and (D) of this section, by the end of each school fiscal year, for a school district whose net revenues are less than the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district, the Division of Elementary and Secondary Education shall distribute to the school district the difference between:

(a) The net revenues distributed to the school district as reported under § 26-80-101(b)(4)(A)(ii) for the calendar year immediately preceding the current school year; and

(b) The sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district.

(ii) The Division of Elementary and Secondary Education may distribute to the school district a lesser amount than required under

subdivisions (a)(4)(A)(i)(a) and (b) of this section if after the lesser amount is distributed the school district will receive the foundation funding amount under this subsection.

(B) For a school district whose net revenues are more than the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district, the Division of Elementary and Secondary Education, under the authority of § 6-20-2306, shall recoup from the school district an amount equal to the difference between:

(i) The net revenues of the school district; and

(ii) The sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district.

(C) The Division of Elementary and Secondary Education shall not distribute to a school district the funds under subdivision (a)(4)(A)(i) of this section if, regardless of the school district's tax collection rate, the school district's net revenues plus miscellaneous funds calculated under § 6-20-2308 meet or exceed the foundation funding amount set forth in this subsection.

(D)(i) A county treasurer shall submit annually to the Division of Elementary and Secondary Education an annual summary report of all proceeds generated from ad valorem taxes and distributed by the county to a school district for the period beginning January 1 and ending on December 31 of the preceding calendar year to verify the receipt of revenues under § 26-80-101(b)(4)(A)(ii).

(ii)(a) The Division of Elementary and Secondary Education may adjust data appropriately if it determines that irregular distributions by a county treasurer of excess commissions cause a school district's property tax collection rate from the uniform rate of tax to exceed ninety-eight percent (98%).

(b) The Division of Elementary and Secondary Education may adjust the uniform rate of tax from an irregular distribution to an amount not in excess of ninety-eight percent (98%) and apply the excess distribution amount the following school year.

(iii) Evidence of overlapping revenue reporting or irregular distributions shall be provided in the form required by the Division of Elementary and Secondary Education.

(b)(1) In addition to state foundation funding aid, each school district shall receive funding for additional education categories as provided in subdivisions (b)(2)-(6) of this section.

(2)(A)(i) For the 2021-2022 school year, alternative learning environment funding shall be four thousand seven hundred ninety-four dollars (\$4,794) multiplied by the number of identified alternative learning environment students enrolled during the previous school year.

(ii) For the 2022-2023 school year, alternative learning environment funding shall be four thousand eight hundred ninety dollars (\$4,890) multiplied by the number of identified alternative learning environment students enrolled during the previous school year.

(iii) Funding for students in alternative learning environments shall be distributed based on rules promulgated by the State Board of Education.

(B)(i)(a) Beginning with the 2020-2021 school year, secondary vocational area center funding shall be established by a tiered funding structure for distributing vocational center aid for each full-time equivalent student, as defined by the Division of Career and Technical Education.

(b) The vocational center aid under subdivision (b)(2)(B)(i)(a) of this section shall be determined by the Division of Career and Technical Education, in consultation with the Office of Skills Development, and approved by the State Board of Education.

(ii) The Division of Career and Technical Education shall promulgate rules for:

(a) A tiered system of determining the amount of vocational center aid under subdivision (b)(2)(B)(i) of this section for each secondary vocational area center; and

(b) The method of distribution of the vocational center aid under subdivision (b)(2)(B)(i) of this section.

(3)(A) For the 2021-2022 school year, funding for students who are identified as English-language learners shall be three hundred fifty-nine dollars (\$359) for each identified English-language learner.

(B) Funding for English-language learners shall be distributed to public school districts for students who have been identified as not proficient in the English language based upon a state-approved English proficiency assessment instrument.

(C) Funds allocated for English-language learners to public school districts under this subchapter shall be expended only for eligible activities as identified in current rules promulgated by the State Board of Education and are a supplement to funding for national school lunch students provided in subdivision (b)(4) of this section.

(D) For the 2022-2023 school year and each school year thereafter, funding for students who are identified as English-language learners shall be three hundred sixty-six dollars (\$366) for each identified English-language learner.

(4)(A) Enhanced Student Achievement Funding for each identified national school lunch student shall be as follows:

(i) For a public school district in which ninety percent (90%) or more of the previous school year's enrolled students are national school lunch students, the amount of per-student Enhanced Student Achievement Funding for the 2021-2022 school year is one thousand five hundred ninety-four dollars (\$1,594) and for the 2022-2023 school year is one thousand six hundred thirteen dollars (\$1,613);

(ii) For a public school district in which at least seventy percent (70%) but less than ninety percent (90%) of the previous school year's enrolled students are national school lunch students, the amount of per-student Enhanced Student Achievement Funding for the 2021-2022 school year is one thousand sixty-three dollars (\$1,063) and for

the 2022-2023 school year is one thousand seventy-six dollars (\$1,076); and

(iii) For a public school district in which less than seventy percent (70%) of the previous school year's enrolled students are national school lunch students, the amount of per-student Enhanced Student Achievement Funding for the 2021-2022 school year is five hundred thirty-two dollars (\$532) and for the 2022-2023 school year is five hundred thirty-eight dollars (\$538).

(B)(i)(a) Except as provided under subdivision (b)(4)(B)(i)(c) of this section, Enhanced Student Achievement Funding under this subdivision (b)(4) shall be based on the number of national school lunch students for the immediately preceding school year determined under § 6-20-2303(14)(A).

(b) If the public school district is participating under 42 U.S.C. § 1759a, funding under this subdivision (b)(4) is based on the percentage determined in § 6-20-2303(14)(B) multiplied by the number of enrolled students for the immediately preceding school year.

(c) The per-student Enhanced Student Achievement Funding for an open-enrollment public charter school shall be based upon the current school year enrollment:

(1) In the initial year of operation for an open-enrollment public charter school; or

(2) In a year in which an open-enrollment public charter school adds a grade.

(ii)(a) If a public school district will receive in the current school year Enhanced Student Achievement Funding under subdivision (b)(4)(A) of this section that is based on a different per-student amount of Enhanced Student Achievement Funding than the public school district received in the immediately preceding school year, due to a percentage change in national school lunch students, the Division of Elementary and Secondary Education shall adjust the funding to the public school district in a transitional three-year period.

(b) The amount of Enhanced Student Achievement Funding under this subdivision (b)(4)(B)(ii) shall be increased or decreased in each year of a three-year transition period by one-third ($\frac{1}{3}$) of the difference between the amount of Enhanced Student Achievement Funding per student for the current year and the amount of Enhanced Student Achievement Funding per student for the immediately preceding year, adjusted for changes to the funding rates in subdivision (b)(4)(A) of this section.

(iii)(a) The Division of Elementary and Secondary Education shall establish rules to implement the transitional Enhanced Student Achievement Funding provided in subdivision (b)(4)(B)(ii) of this section.

(b) The rules shall include the methods of transition for a school district that:

(1) Experiences a decrease in the amount of Enhanced Student

Achievement Funding per student under subdivision (b)(4)(A) of this section;

(2) Experiences an increase in the amount of Enhanced Student Achievement Funding per student under subdivision (b)(4)(A) of this section; or

(3) Within a three-year transition period, experiences both a decrease and an increase in the amount of Enhanced Student Achievement Funding per student under subdivision (b)(4)(A) of this section.

(iv) Under no circumstances shall a public school district be entitled to receive more or less Enhanced Student Achievement Funding as a result of the transitional process than the public school district is otherwise entitled to receive under this subdivision (b)(4) based on the school district's national school lunch student population as a percentage of the public school district's entire student population.

(v)(a) A public school district that has experienced a significant growth in enrolled students in the previous three (3) years shall receive funding for the expected increase in the number of national school lunch students based on the expected increase in enrolled students based on the levels of funding provided in this section for national school lunch students.

(b) The State Board of Education shall establish rules to be used by the Division of Elementary and Secondary Education to determine:

(1) The amount of growth necessary to qualify as significant growth;

(2) The expected increase in the number of national school lunch students based on the expected increase in enrolled students; and

(3) Which public school districts have experienced a significant growth in enrolled students as necessary to qualify for funding under this subdivision (b)(4)(B)(v).

(c) The Division of Elementary and Secondary Education shall not be required to adjust or fund a public school district's national school lunch students based on the current year's number of national school lunch students enrolled in the public school district or the average growth of students in the public school district.

(C)(i)(a) A school district shall expend funds allocated under this subdivision (b)(4) in accordance with the rules developed by the Division of Elementary and Secondary Education to provide the following supports and resources:

(1) If the school district meets the teacher compensation requirements according to the minimum salary schedule under § 6-17-2403 for teachers serving in positions required by the Standards for Accreditation of Arkansas Public Schools and School Districts without using funds provided under this subdivision (b)(4):

(A) The hiring of additional teachers for core academic subject areas, as identified in the Division of Elementary and Secondary Education Rules Governing the Arkansas Qualified Teacher Require-

ments, that are not required by the Standards for Accreditation of Arkansas Public Schools and School Districts;

(B) The enhancement of teacher salaries for recruitment and retention purposes;

(C) Obtaining additional compensation for teachers who assume identified leadership roles; or

(D) Additional compensation for teachers who assume additional responsibilities that support student academic achievement;

(2) Academic supports and interventions, including without limitation curriculum specialists, facilitators, tutors, dyslexia interventions, and Response to Intervention;

(3) Social, emotional, and behavioral supports;

(4) Physical and mental health resources, including without limitation personnel;

(5) Early intervention resources, including without limitation pre-kindergarten programs, school tutoring programs that take place before or after school, and early literacy interventions; and

(6) Access to postsecondary opportunities, including without limitation access to career coaches, concurrent credit courses, college-entrance support, and career-readiness support.

(b)(1) By July 1, 2022, each public school district shall submit a three-year enhanced student achievement plan to the Division of Elementary and Secondary Education describing the school district's intended and implemented strategies to enhance student achievement and how enhanced student achievement funds will be used to support the strategies of the school district as permitted by this subdivision (b)(4) and rules promulgated by the State Board of Education.

(2) A school district shall review annually the school district's enhanced student achievement plan and shall review the progress of the school district's enhanced student achievement plan.

(3) The enhanced student achievement plan of a school district shall be updated as necessary by the school district, and amendments to the enhanced student achievement plan shall be submitted annually to the Division of Elementary and Secondary Education with the annual budget of the school district.

(4) The Division of Elementary and Secondary Education shall monitor the implementation and progress of the enhanced student achievement plan of a school district.

(5) A school district that does not demonstrate progress toward the goals of the enhanced student achievement plan of the school district for three (3) consecutive years may be subject to one (1) or more of the following:

(A) Additional monitoring by the Division of Secondary and Elementary Education;

(B) An increased level of support as provided in § 6-15-2913; or

(C) A corrective action plan that shall be developed in collaboration with the Division of Elementary and Secondary Education.

(c) The list of approved programs established before July 24, 2019, by the State Board of Education under subdivision (b)(4)(C)(i)(a) of this section shall expire on June 30, 2022.

(d) The State Board of Education shall promulgate rules for the implementation of this subdivision (b)(4)(C)(i) that shall include without limitation:

(1) The process for submitting an enhanced student achievement plan;

(2) The process for monitoring the expenditure of funds allocated under this subdivision (b)(4); and

(3) The specific requirements, qualifications, and criteria for allowable supports and resources.

(ii)(a) A school district shall budget one hundred percent (100%) of funds allocated under this subdivision (b)(4) each year to provide the supports and resources described in subdivision (b)(4)(C)(i)(a) of this section.

(b) If a school district intends to transfer funds allocated under this subdivision (b)(4) to other programs, the school district shall provide justification for the transfer of funds to the Division of Elementary and Secondary Education.

(iii) Notwithstanding any other provision of law, if the Division of Elementary and Secondary Education determines that a school district's expenditure of funds allocated under this subdivision (b)(4) would result in the school district's losing funding under any federal law, then the funds allocated to a school district under this subdivision (b)(4) may be expended for other academic programs or salaries.

(iv) The Division of Elementary and Secondary Education may direct that a school district expend available funds on specified programs under subdivision (b)(4)(C)(i) of this section.

(v) The Division of Elementary and Secondary Education shall develop appropriate forms for use by school districts to comply with this subdivision (b)(4)(C) and the rules of the State Board of Education.

(D)(i) The Division of Elementary and Secondary Education shall provide a report on the progress of school districts in meeting plan goals to the House Committee on Education and the Senate Committee on Education by October 1 of each odd-numbered year, beginning in 2023.

(ii) The report shall include information broken down by category as described in subdivision (b)(4)(A) of this section on:

(a) How school districts are spending funds provided under this subdivision (b)(4), including specific programs utilized by school districts;

(b) The amount of funds transferred to another categorical fund, including an explanation of why the funds were transferred; and

(c) The analysis of student achievement data evaluated in student achievement growth models as described in § 6-15-2908 shall be expanded to include the evaluation of the best estimates of classroom,

school, and school district effects on enhancing student achievement, in addition to the examination of student progress based on established value-added longitudinal calculations.

(iii) The report shall be included in the General Assembly's biennial adequacy study to evaluate the adequacy of education in the state.

(E)(i) By June 30 of each year, a school district shall spend a minimum of eighty-five percent (85%) of the school district's annual funding allocation as provided under subdivision (b)(4)(C) of this section.

(ii) A school district that on June 30 of any year has an enhanced student achievement funding balance in excess of fifteen percent (15%) of the school district's current year enhanced student achievement funding allocation shall reduce its total enhanced student achievement funding balance by at least ten percent (10%) in each year that follows so that by June 30 of each year, the school district has a balance of no more than fifteen percent (15%) of the school district's current year enhanced student achievement funding allocation.

(iii)(a) Under an unusual and limited circumstance, including without limitation an increase in one-time funds or an unexpected decrease in school district revenues during a given year, a school district may request that the Division of Elementary and Secondary Education waive the requirements of this subdivision (b)(4)(E).

(b) A school district seeking a waiver shall file a waiver request with the Commissioner of Elementary and Secondary Education, accompanied by a resolution adopted by the school district's board of directors, describing the unusual and limited circumstances.

(iv) The commissioner may grant a waiver request under this subdivision (b)(4)(E) for up to one (1) year if the commissioner finds that the request is necessary based upon the unusual and limited circumstances.

(v)(a) The Division of Elementary and Secondary Education shall monitor on a yearly basis each school district's compliance with the requirements of this subdivision (b)(4)(E).

(b) If a school district fails to comply with the requirements of this subdivision (b)(4)(E) during a school year, the Division of Elementary and Secondary Education may in the following school year withhold from that school district's national school lunch state categorical funding allocation an amount equal to the amount required to be spent by the school district in order to be in compliance with the requirements of this subdivision (b)(4)(E).

(c) The Division of Elementary and Secondary Education may redistribute amounts withheld under this subdivision (b)(4)(E) to other school districts entitled to receive national school lunch state categorical funding allocations.

(5)(A) For each school year, professional development funding shall be equal to an amount of up to forty dollars and eighty cents (\$40.80)

multiplied by the school district's previous school year average daily membership.

(B) Funding for professional development for teachers in Arkansas public schools required under the Teacher Excellence and Support System, § 6-17-2801 et seq., other law or rule, or by the school district shall be used for professional development activities and materials that:

- (i) Improve the knowledge, skills, and effectiveness of teachers;
- (ii) Address the knowledge and skills of administrators and para-professionals concerning effective instructional strategies, methods, and skills;
- (iii) Lead to improved student academic achievement; and
- (iv) Provide training for school bus drivers as outlined in rules promulgated by the Commission for Arkansas Public School Academic Facilities and Transportation.

(C)(i) For the 2021-2022 school year, additional funding up to fourteen million five hundred thousand dollars (\$14,500,000) and for the 2022-2023 school year, additional funding up to sixteen million five hundred thousand dollars (\$16,500,000), provided for professional development above the amount in subdivision (b)(5)(A) of this section shall be used by the Division of Elementary and Secondary Education for the development and administration of professional learning communities for the benefit of public school districts.

(ii)(a) The Division of Elementary and Secondary Education shall promulgate rules to administer the additional professional development funding under subdivision (b)(5)(C)(i) of this section.

(b) The Division of Elementary and Secondary Education may partner with or choose a person, firm, corporation, or education service cooperative to provide the knowledge, skills, experience, and expertise for the development of a research-based process for the implementation of professional learning communities.

(6)(A)(i) Beginning with the 2021-2022 school year, for school districts identified by the Division of Elementary and Secondary Education as having an average annual teacher salary below the statewide target average annual salary, teacher salary equalization funding shall be equal to one hundred eighty-five dollars (\$185) multiplied by the average daily membership of the school district for the previous school year.

(ii) For the 2021-2022 and 2022-2023 school years, the statewide target average annual salary shall be fifty-one thousand eight hundred twenty-two dollars (\$51,822).

(iii) The House Committee on Education and the Senate Committee on Education shall set jointly the statewide target average annual salary for the 2023-2024 and 2024-2025 school years, and each biennium thereafter, as part of the adequacy review process required under § 10-3-2102.

(B)(i) On or before October 31 of each year, the Division of Elementary and Secondary Education shall determine if a school

district is eligible to receive teacher salary equalization funds by reviewing certified salary data submitted by the school district for the immediately preceding fiscal year.

(ii) A school district with an average annual teacher salary meeting or exceeding the statewide target average annual teacher salary for the year is ineligible to receive teacher salary equalization funds exceeding the amount received by the school district in the previous year.

(iii) A school district that receives funds from the Educator Compensation Reform Fund is ineligible to receive teacher salary equalization funds for the year in which the school district receives funds from the Educator Compensation Reform Fund.

(iv) A school district shall continue to receive teacher salary equalization funds in the same amount as the preceding fiscal year in addition to the amount eligible for the current fiscal year.

(C) Teacher salary equalization funding provided to a school district under this subchapter shall be expended only for teacher salaries and benefits.

(c) Isolated funding under § 6-20-601, student growth funding, and special education high-cost occurrences funding shall be funded as follows:

(1) Isolated funding and special education high-cost occurrences funding shall be allocated and funded to school districts in a line item appropriation within the Public School Fund pursuant to law or rules promulgated by the State Board of Education; and

(2) Student growth funding is calculated as the sum of the following amounts:

(A) One-fourth ($\frac{1}{4}$) of the per-student foundation funding for the school district under subdivision (a)(2) of this section multiplied by the increase, if any, of each of the following:

(i) The school district's quarterly average daily membership for the fourth quarter of the previous school year over the average daily membership in the year before the fourth quarter;

(ii) The school district's quarterly average daily membership for the first quarter of the current school year over the average daily membership of the previous school year;

(iii) The school district's quarterly average daily membership for the second quarter of the current year over the average daily membership of the previous school year; and

(iv) The school district's quarterly average daily membership for the third quarter of the current school year over the average daily membership of the previous school year;

(B) Excluding any increase resulting solely from consolidation or annexation with another school district; and

(C) If net revenues minus any recoupment under subdivision (a)(4)(B) of this section plus miscellaneous funds calculated under § 6-20-2308(b)(1)(A) exceed the foundation funding amount, a school district shall be eligible to receive the amount of calculated student

growth funding that exceeds net revenues minus any recoupment under subdivision (a)(4)(B) of this section plus miscellaneous funds calculated under § 6-20-2308(b)(1)(A).

(d) The sum of subsections (a)-(c) of this section shall be the total state aid allocated and funded to school districts pursuant to this section.

(e)(1) Funds distributed to school districts under subsection (b) of this section shall be expended on:

(A) The students within each category of special needs for which the funds were allocated;

(B) Any students within any category of special needs under subsection (b) of this section as permitted by rules issued by the State Board of Education; or

(C) If the Division of Elementary and Secondary Education determines that a school district's expenditure of funds allocated under subsection (b) of this section would result in the school district's losing funding under any federal law, then the funds allocated to a school district under subsection (b) of this section may be expended for other academic programs or salaries as permitted by the Division of Elementary and Secondary Education.

(2) On June 30, 2012, and on June 30 of each school year thereafter, if the total aggregate balance of all state categorical fund sources exceeds twenty percent (20%) of the school district's total aggregate annual state categorical fund allocations for the current school year, the school district shall reduce the total balance by ten percent (10%) each year until the school district's June 30 balance of aggregate annual categorical fund sources is twenty percent (20%) or less of the total aggregate annual state categorical fund allocations for the current school year.

(3) A school district may transfer funds received from any categorical fund source to another categorical fund source.

(4)(A) The Division of Elementary and Secondary Education shall monitor on a yearly basis each school district's compliance with the requirements of this subsection.

(B) If a school district fails to comply with the requirements of this subsection during a school year, the Division of Elementary and Secondary Education may in the following school year withhold from that school district's categorical funding allocation an amount equal to the amount required to be spent by the school district in order to be in compliance with the requirements of this subsection.

(C) The Division of Elementary and Secondary Education may redistribute amounts withheld under this subsection to other school districts entitled to receive categorical funding allocations.

(f) In order for a school district to be entitled to state funds under the provisions of this subchapter, the school district shall satisfy the following requirements:

(1) Expenditures for any fiscal year shall not exceed the legal revenues for that fiscal year;

(2) The school district shall maintain records and make reports relative to attendance, receipts, and disbursements and other reports as required by the Division of Elementary and Secondary Education for the administration of this subchapter;

(3) The school district shall maintain proper financial records in accordance with the state's school accounting manual and rules promulgated by the State Board of Education;

(4)(A) Each school year the school district shall file with the State Board of Education a salary schedule for its licensed employees that recognizes a minimum level of training and experience.

(B) The schedule shall reflect the actual pay practices of the school district, including all fringe benefits.

(C) Salary increments for experience or education, or both, shall be identified on the schedule; and

(5)(A) All pupil attendance records shall be kept in their original form and shall be public records.

(B) The records shall be kept according to law and rules on paper or electronic forms either furnished or approved by the Division of Elementary and Secondary Education.

(C) After the school term has ended, the superintendent of the school district shall:

(i) Keep the original attendance records on file for a period of three (3) school years; and

(ii) Make the original attendance records available for monitoring purposes during any day of the school term for the teachers or other persons designated to keep attendance.

(g)(1) By the end of each school year, each school district shall submit to the Division of Elementary and Secondary Education a report listing each program upon which funds allocated under subsection (b) of this section were expended, the amount expended, and any other information required by the Division of Elementary and Secondary Education.

(2) The Division of Elementary and Secondary Education shall develop appropriate reporting forms for use by school districts.

History. Acts 2003 (2nd Ex. Sess.), No. 59, § 1; 2005, No. 2283, § 2; 2006 (1st Ex. Sess.), No. 19, § 3; 2006 (1st Ex. Sess.), No. 21, § 1; 2006 (1st Ex. Sess.), No. 30, § 1; 2006 (1st Ex. Sess.), No. 31, § 1; 2007, No. 272, §§ 3, 4, 6; 2007, No. 273, § 1; 2007, No. 461, §§ 2, 3; 2007, No. 811, § 2; 2007, No. 1590, §§ 1, 2; 2009, No. 965, § 1; 2009, No. 1186, § 1; 2009, No. 1369, § 1; 2009, No. 1397, § 4; 2009, No. 1469, §§ 16, 17; 2009, No. 1474, § 1; 2009, No. 1501, § 1; 2011, No. 633, § 1; 2011, No. 981, § 12; 2011, No. 993, § 2; 2011, 1039, §§ 2-4; 2011, No. 1209, § 9; 2011, No. 1220, §§ 1-4; 2013, No. 322, § 3; 2013, No. 420, § 6; 2013, No. 557, § 2; 2013, No. 1138, § 52; 2013, No. 1467, §§ 1-5; 2013, No. 1473, § 1; 2013 (1st Ex. Sess.), No. 2, § 4; 2015, No. 846, § 28; 2015, No. 994, § 1; 2015, No. 1248, §§ 1-5; 2017, No. 427, § 1; 2017, No. 741, §§ 6, 7; 2017, No. 743, §§ 1-5; 2017, No. 936, §§ 51-53; 2019, No. 179, § 2; 2019, No. 315, §§ 299, 300; 2019, No. 532, § 1; 2019, No. 667, §§ 1-4; 2019, No. 757, §§ 49, 50; 2019, No. 910, §§ 1676-1694; 2019, No. 1082, § 4; 2019, No. 1083, § 3; 2021, No. 322, §§ 1-6; 2021, No. 544, § 50; 2021, No. 545, § 7; 2021, No. 614, §§ 1-5; 2021, No. 679, §§ 2, 3; 2021, No. 680, §§ 2, 3; 2021, No. 909, § 1; 2022, No. 111, § 5.

A.C.R.C. Notes. Acts 2022, No. 111, § 1, provided: "Legislative Findings. The General Assembly finds that:

"(1) It is vital that the State and Public School Life and Health Insurance Program remain solvent;

"(2) It is the responsibility of the House Committee on Education and the Senate Committee on Education, through the biennial adequacy review process required under § 10-3-2102, to determine the health insurance contribution rate to be paid by each public school district each month for each eligible employee electing

to participate in the public school employees' health insurance program; and

"(3) In order to determine the contribution rate, the House Committee on Education and the Senate Committee on Education shall review the amount of funding provided through the matrix and state appropriation for public school employee health insurance."

Amendments. The 2022 amendment substituted "seven thousand four hundred thirteen dollars (\$7,413)" for "seven thousand three hundred forty-nine dollars (\$7,349)" in (a)(2)(B).

SUBCHAPTER 25 — ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES FUNDING ACT

SECTION.

6-20-2503. Bonded debt assistance —
Definitions.

Effective Dates. Acts 2022, No. 111, § 7: Mar. 1, 2022. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the State and Public School Life and Health Insurance Program is inadequate to provide sustainable affordable health benefits for public school employees and state employees; that an urgent need exists to address the state's funding and administration of benefits for public school employees and state employees in order for the program to remain viable and to avoid severe financial hardship to plan participants; and that this act is immediately necessary to provide afford-

able health benefit options in a timely manner to the state's public school employees participating in the program and state employees participating in the program. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-20-2503. Bonded debt assistance — Definitions.

(a) As used in this section:

(1) "Eligible school district" means a school district that applied for bonded debt assistance under this section before July 1, 2005;

(2) "Foundation funding" means an amount of money specified by the General Assembly for each school year to be expended by school districts for the provision of an adequate education for each student as that amount is established in § 6-20-2305;

(3) "Miscellaneous funds" means the amount of miscellaneous funds, as defined in § 6-20-2303, calculated under § 6-20-2308(a);

(4) "Per-student revenue" means the sum of projected revenue from the uniform rate of tax and miscellaneous funds divided by the average daily membership for the school district for the previous school year;

(5) "Projected revenue from the uniform rate of tax" means in each school year ninety-eight percent (98%) of the amount of revenue available in a school district solely from the levy of the uniform rate of tax; and

(6) "State wealth index" means the result of one (1) minus the ratio derived by dividing per-student revenue by the difference between the per-student foundation funding amount under § 6-20-2305 and per-student revenue.

(b)(1) In accordance with the requirements and limitations of this section, the state shall provide eligible school districts with financial assistance for the purpose of retiring outstanding bonded indebtedness in existence as of January 1, 2005.

(2) The amount of financial assistance under this section is based on:

(A) The total amount required to satisfy a school district's outstanding bonded indebtedness in existence as of January 1, 2005;

(B) The annual amount due on a fiscal year basis from the school district in accordance with the principal and interest payment schedule in effect and on file with the Division of Elementary and Secondary Education on January 1, 2005, for the outstanding bonded indebtedness identified under subdivision (b)(2)(A) of this section; and

(C) The calculation in subdivision (b)(3)(A) of this section.

(3)(A) The Commission for Arkansas Public School Academic Facilities and Transportation shall determine the amount of bonded debt assistance for each eligible school district as follows:

(i)(a) For the year that financial assistance under this section will be provided, ascertain the scheduled debt payment on a fiscal year basis from the principal and interest payment schedule in effect and on file with the Division of Elementary and Secondary Education on January 1, 2005, and reduce the amount of the payment by ten percent (10%) except as provided in subdivision (b)(3)(A)(i)(b) of this section.

(b)(1) If a school district can demonstrate to the satisfaction of the commission that all or a portion of the ten-percent reduction in its scheduled debt payment under subdivision (b)(3)(A)(i)(a) of this section can be attributed to the support of academic facilities, the commission shall reverse all or a portion of the ten-percent reduction by a percentage proportionate to the amount attributable to academic facilities.

(2) A school district that applied to the commission during the 2006-2007 school year for a reversal of the ten-percent reduction but was denied the reversal by the commission due to the failure of the school district to submit timely appeals shall be entitled to receive bonded debt assistance for the relevant period of the program beginning with the 2007-2008 school year in the amount approved by the Division of Public School Academic Facilities and Transportation;

(ii) For the year that bonded debt assistance will be provided, divide the scheduled debt payment as adjusted under subdivision (b)(3)(A)(i) of this section by the total assessed valuation of taxable real, personal, and utility property in the school district as shown by the applicable county assessment for the most recent year with the result multiplied by one thousand (1,000);

(iii)(a) Multiply the calculation under subdivision (b)(3)(A)(ii) of this section by a funding factor per average daily membership that will distribute a total amount of bonded debt assistance no less than the total amount of funds that would have been distributed during fiscal year 2005 if every school district in the state had received an amount of bonded debt assistance equal to an amount calculated by applying the debt service funding supplement formula under the Supplemental School District Funding Act of 2003, § 6-20-2401 et seq. [repealed], during Fiscal Year 2005 with a funding factor of eighteen dollars and three cents (\$18.03).

(b) The funding factor for each fiscal year after Fiscal Year 2006 shall be equal to the funding factor derived for Fiscal Year 2006 under subdivision (b)(3)(A)(iii)(a) of this section; and

(iv) Multiply the calculation under subdivision (b)(3)(A)(iii) of this section by the state wealth index.

(B) As the amount of bonded debt assistance under this section decreases to correlate with reductions in principal and interest payments and increases in property assessments, the commission shall distribute any remaining funded bonded debt assistance appropriation through the Educational Facilities Partnership Fund Account in accordance with rules promulgated by the commission.

(4)(A) The commission shall determine the amount of bonded debt assistance for each eligible school district no later than July 15 of each year.

(B)(i) Bonded debt assistance under this subsection is payable to each eligible school district in two (2) installments.

(ii) The commission shall arrange for the payment of the first installment by August 1 of each year and the second installment by February 1 of each year.

(5) For tracking purposes, the school district shall account for the funds received as state bonded debt assistance under this section as restricted funds and shall account for the funds in accordance with provisions of law, including, without limitation, the Arkansas Educational Financial Accounting and Reporting Act of 2004, § 6-20-2201 et seq., and rules established by the commission.

(c)(1)(A) Nothing in this section shall prohibit a school district from refunding bonds that were issued and outstanding as of January 1, 2005.

(B) If a school district qualifies for bonded debt assistance under this section, the amount of bonded debt assistance under this section shall not be altered or reduced as a result of refunding the bonds that were issued and outstanding as of January 1, 2005, and the bonded

debt assistance shall continue after the refunding based on the principal and interest payment schedule in effect and on file with the Division of Elementary and Secondary Education on January 1, 2005.

(2) Nothing in this subsection shall prevent the annual adjustment of bonded debt assistance under this section in accordance with annual variations in the state wealth index and the school district's principal and interest payment schedule in effect and on file with the Division of Elementary and Secondary Education on January 1, 2005.

(d)(1) The state shall not assume any debt of a school district or incur any obligation with regard to a school district's bonded indebtedness by providing the bonded debt assistance described in this section.

(2) The school district receiving bonded debt assistance under this section is and will remain independently liable for all outstanding indebtedness.

(e) [Repealed.]

(f) [Repealed.]

(g) Within thirty (30) days after the satisfaction of a school district's outstanding bonded indebtedness in existence as of January 1, 2005, the school district shall notify the Division of Elementary and Secondary Education that the school district's outstanding bonded indebtedness in existence as of January 1, 2005, has been satisfied, which shall include defeasance, but shall exclude refunding.

History. Acts 2005, No. 2206, § 1; 2019, No. 910, §§ 1701-1705; 2022, No. 2007, No. 989, §§ 3-5; 2007, No. 1573, 111, § 6.
 § 33; 2009, No. 1479, § 1; 2011, No. 266, § 1; 2013, No. 322, § 5; 2013 (1st Ex. Sess.), No. 1, §§ 1, 2; 2017, No. 931, § 2;

Amendments. The 2022 amendment repealed (e) and (f).

SUBTITLE 5. POSTSECONDARY AND HIGHER EDUCATION GENERALLY

CHAPTER 65

AGRICULTURAL COLLEGES

SUBCHAPTER.

3. ARKANSAS TECH UNIVERSITY.

SUBCHAPTER 3 — ARKANSAS TECH UNIVERSITY

SECTION.

6-65-301. Board of Trustees of Arkansas Tech University.

Effective Dates. Acts 2022, No. 204, § 13; Mar. 8, 2022, §§ 8, 9. Emergency clause provided: "It is found and determined by the General Assembly of the

State of Arkansas that Arkansas Tech University enrolls students from all seventy-five (75) counties in the State of Arkansas; that Arkansas Tech University

provides healthcare education to individuals who graduate and go on to serve residents of the State of Arkansas; that the appointees to the Board of Trustees of Arkansas Tech University are currently limited to being appointed from only thirty (30) counties; that agricultural districts no longer exist in the State of Arkansas; that it is necessary for the Board of Trustees of Arkansas Tech University to consider appointees from all seventy-five (75) counties within the State of Arkansas in order to represent students from all seventy-five (75) counties in the state; and that considering appointees to the Board of Trustees of Arkansas Tech University

from a limited number of counties limits the ability of Arkansas Tech University to educate our future healthcare workers. Therefore, an emergency is declared to exist, and Sections 8 and 9 of this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-65-301. Board of Trustees of Arkansas Tech University.

(a) There is created an honorary board constituting the Board of Trustees of Arkansas Tech University.

(b)(1) The board shall consist of five (5) members who shall each be a resident of the State of Arkansas.

(2) The Governor, by and with the advice and consent of the Senate, shall appoint the members of the board.

(3) The Secretary of State shall furnish a certificate to each board member within ten (10) days following appointment, whereupon the appointee shall notify the Governor and the Secretary of State in writing of his or her acceptance of the appointment within thirty (30) days, and if the appointee shall fail to give such notice of his or her acceptance within the time required, then the appointment shall be declared void and another appointment shall be made.

(c)(1) Members of the board appointed by the Governor under the provisions of this section, in addition to possessing the qualifications of an elector, shall reside in the State of Arkansas.

(2)(A) The Governor, Attorney General, Secretary of State, Auditor of State, Treasurer of State, Commissioner of State Lands, or a justice of the Supreme Court shall be ineligible for membership on the board provided for in this section during the time for which he or she was elected or appointed.

(B) No individual may be a member of more than one (1) of the boards created under the provisions of § 25-17-201 at the same time.

(d)(1) The term of office for each member shall commence on January 15 and shall end on January 14 of the fifth year following the year in which the regular term commenced.

(2) The Governor shall submit to the Senate for approval, on or before the fourteenth day following the commencement of each regular session of the General Assembly the names of all unconfirmed appointments made by him or her to fill expired terms and the names of appointments to fill the terms expiring during the regular session of the

General Assembly. The members appointed by the Governor to fill vacancies caused by the expiration of the terms of members may qualify and hold office until the appointments are rejected by the Senate.

(e) Any vacancies arising in the membership of the board for any reason other than the expiration of the regular terms for which the members were appointed shall be filled by the appointment of the Governor, subject to the approval by a majority of the remaining members of the board and shall be thereafter effective until the expiration of the regular terms.

(f)(1) Before entering upon his or her respective duties, each board member shall take and subscribe and file in the office of the Secretary of State an oath to support the United States Constitution and the Arkansas Constitution and to faithfully perform the duties of the office upon which he or she is about to enter and that he or she will not be or become interested, directly or indirectly, in any contract made by the board.

(2)(A) Any violation of the oath shall be a Class B misdemeanor.

(B) Any contract entered into in violation of the oath shall be void.

(g) Members of the board provided for in this section may receive expense reimbursement in accordance with § 25-16-901 et seq.

(h)(1) The Governor shall have the power to remove any member of the board before the expiration of his or her term for cause only, after notice and hearing.

(2) The removal shall become effective only when approved in writing by a majority of the total number of the board, but the member removed or his or her successor shall have no right to vote on the question of removal.

(3) The removal action shall be filed with the Secretary of State together with a complete record of the proceedings at the hearing.

(4)(A) An appeal may be taken to the Pulaski County Circuit Court by the Governor or the member ordered removed, and the appeal shall be tried de novo on the record of the hearing before the Governor.

(B) An appeal may be taken from the circuit court to the Supreme Court, which shall likewise be tried de novo.

History. Acts 1943, No. 1, §§ 2, 4-7; A.S.A. 1947, §§ 7-201, 7-203, 7-204 — 7-206; Acts 1997, No. 250, § 34; 2005, No. 1994, § 390; 2022, No. 204, §§ 8, 9.

Amendments. The 2022 amendment substituted “who shall each be a resident of the State of Arkansas” for “to be ap-

pointed from the counties in the Second Agricultural and Mechanical District” in (b)(1); and, in (c)(2)(A), deleted “and the director or employees of any state department, state agency, or state institution” following “Supreme Court” and made a stylistic change.

TITLE 7

ELECTIONS

CHAPTER.

2. CONGRESSIONAL DISTRICTS.

CHAPTER 2

CONGRESSIONAL DISTRICTS

SECTION.

7-2-102. First Congressional District.

7-2-103. Second Congressional District.

SECTION.

7-2-104. Third Congressional District.

7-2-105. Fourth Congressional District.

Effective Dates. Identical Acts 2021 (Extended Sess.), Nos. 1114 and 1116, § 2: Emergency clause failed to pass. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the General Assembly is responsible for establishing the four (4) United States Congressional Districts in the state; that the four (4) United States Congressional Districts are based on the information provided by the federal decennial census by the United States Bureau of the Census; that the federal decennial census data delivery was delayed; that the establishment of the four (4) United States Congressional Districts is necessary to provide equal representation of the citizens of Arkansas in the

United States Congress; and that this act is immediately necessary because the establishment of the four (4) United States Congressional Districts must occur in adequate time for the candidates to file for office and for the citizens of Arkansas to have a fair election. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

7-2-102. First Congressional District.

(a) The First Congressional District shall be composed of:

(1) The counties of Arkansas, Baxter, Boone, Chicot, Clay, Craighead, Crittenden, Cross, Desha, Fulton, Greene, Independence, Izard, Jackson, Lawrence, Lee, Lincoln, Lonoke, Marion, Mississippi, Monroe, Phillips, Poinsett, Prairie, Randolph, St. Francis, Searcy, Sharp, Stone, and Woodruff; and

(2) The following voting precincts of Pulaski County as they existed on January 1, 2021:

- (A) 047;
- (B) 054; and
- (C) 055.

(b) The qualified electors residing in the counties and portions of Pulaski County listed under subsection (a) of this section shall elect one (1) member of the United States House of Representatives.

History. Acts 1991, No. 1220, § 2; 2001, No. 1840, § 2; 2011, No. 1241, § 1; 2011, No. 1242, § 1; 2021 (Extended Sess.), No. 1114, § 1; 2021 (Extended Sess.), No. 1116, § 1.

Amendments. The 2021 (Extended

Sess.) amendment by identical acts Nos. 1114 and 1116 rewrote (a)(1) and (2); deleted (a)(3); and substituted “portions of Pulaski County” for “portion of Jefferson County and Searcy County” in (b).

7-2-103. Second Congressional District.

(a) The Second Congressional District shall be composed of:

(1) The counties of Cleburne, Conway, Faulkner, Perry, Saline, Van Buren, and White; and

(2) The voting precincts of Pulaski County as they existed on January 1, 2021, that are not listed under § 7-2-102(a)(2) or § 7-2-105(a)(2).

(b) The qualified electors residing in the counties and portions of Pulaski County listed under subsection (a) of this section shall elect one (1) member of the United States House of Representatives.

History. Acts 1991, No. 1220, § 3; 2001, No. 1840, § 3; 2011, No. 1241, § 1; 2011, No. 1242, § 1; 2021 (Extended Sess.), No. 1114, § 1; 2021 (Extended Sess.), No. 1116, § 1.

Amendments. The 2021 (Extended Sess.) amendment by identical acts Nos. 1114 and 1116 rewrote (a); and inserted “and portions of Pulaski County” in (b).

7-2-104. Third Congressional District.

(a) The Third Congressional District shall be composed of:

(1) The counties of Benton, Carroll, Crawford, Madison, and Washington; and

(2) The voting precincts of Sebastian County as they existed on January 1, 2021, that are not listed under § 7-2-105(a)(3).

(b) The qualified electors residing in the counties and portions of Sebastian County listed under subsection (a) of this section shall elect one (1) member of the United States House of Representatives.

History. Acts 1991, No. 1220, § 4; 2001, No. 1840, § 4; 2011, No. 1241, § 1; 2011, No. 1242, § 1; 2021 (Extended Sess.), No. 1114, § 1; 2021 (Extended Sess.), No. 1116, § 1.

Amendments. The 2021 (Extended Sess.) amendment by identical acts Nos.

1114 and 1116 rewrote (a)(1); deleted former (a)(2), (3), and (4); redesignated (a)(5) as (a)(2) and rewrote it; and deleted “Crawford County, Newton County, Searcy County, and” following “portions of” in (b).

7-2-105. Fourth Congressional District.

(a) The Fourth Congressional District shall be composed of:

(1) The counties of Ashley, Bradley, Calhoun, Clark, Cleveland, Columbia, Dallas, Drew, Franklin, Garland, Grant, Hempstead, Hot

Spring, Howard, Jefferson, Johnson, Lafayette, Little River, Logan, Miller, Montgomery, Nevada, Newton, Ouachita, Pike, Polk, Pope, Scott, Sevier, Union, and Yell;

(2) The following voting precincts of Pulaski County as they existed on January 1, 2021:

- (A) 103;
- (B) 104;
- (C) 105;
- (D) 124;
- (E) 125;
- (F) 126;
- (G) 127;
- (H) 131;
- (I) 132;
- (J) 133; and
- (K) 135; and

(3) The following voting precincts of Sebastian County as they existed on January 1, 2021:

- (A) 9-2K;
- (B) 9-2L;
- (C) 9-3A;
- (D) 9-3B;
- (E) 9-3C;
- (F) 9-3D;
- (G) 9-3E;
- (H) 9-3F;
- (I) 9-3G;
- (J) 9-3H;
- (K) 9-3I;
- (L) 9-3J;
- (M) 9-3K;
- (N) 9-3L;
- (O) 9-3M;
- (P) 9-3N;
- (Q) 9-3O;
- (R) 9-3P; and
- (S) 9-4F.

(b) The qualified electors residing in the counties and portions of Pulaski County and Sebastian County listed under subsection (a) of this section shall elect one (1) member of the United States House of Representatives.

History. Acts 1991, No. 1220, § 5; 2001, No. 1840, § 5; 2011, No. 1241, § 1; 2011, No. 1242, § 1; 2021 (Extended Sess.), No. 1114, § 1; 2021 (Extended Sess.), No. 1116, § 1.

Amendments. The 2021 (Extended

Sess.) amendment by identical acts Nos. 1114 and 1116 rewrote (a); and substituted "Pulaski County" for "Crawford County, Jefferson County, Newton County" in (b).

CHAPTER 6

CAMPAIGN PRACTICES

SUBCHAPTER 2 — CAMPAIGN FINANCING

7-6-203. Contributions — Limitations — Acceptance or solicitation — Use as personal income — Disposition. [Effective until January 1, 2023.]

RESEARCH REFERENCES

ALR. Validity Under First Amendment of State Disclosure or Reporting Requirements of Political Contributions or Expenditures by Private Individuals or Entities. 51 A.L.R.7th Art. 1 (2020).

7-6-203. Contributions — Limitations — Acceptance or solicitation — Use as personal income — Disposition. [Effective January 1, 2023.]

RESEARCH REFERENCES

ALR. Validity Under First Amendment of State Disclosure or Reporting Requirements of Political Contributions or Expenditures by Private Individuals or Entities. 51 A.L.R.7th Art. 1 (2020).

7-6-206. Records of contributions and expenditures.

RESEARCH REFERENCES

ALR. Validity Under First Amendment of State Disclosure or Reporting Requirements of Political Contributions or Expenditures by Private Individuals or Entities. 51 A.L.R.7th Art. 1 (2020).

7-6-207. Reports of contributions — Candidates for state or district office.

RESEARCH REFERENCES

ALR. Validity Under First Amendment of State Disclosure or Reporting Requirements of Political Contributions or Expenditures by Private Individuals or Entities. 51 A.L.R.7th Art. 1 (2020).

7-6-208. Reports of contributions — Candidates for school district, township, or municipal office.

RESEARCH REFERENCES

ALR. Validity Under First Amendment of State Disclosure or Reporting Requirements of Political Contributions or Expenditures by Private Individuals or Entities. 51 A.L.R.7th Art. 1 (2020).

7-6-209. Reports of contributions — Candidates for county office.

RESEARCH REFERENCES

ALR. Validity Under First Amendment of State Disclosure or Reporting Requirements of Political Contributions or Expenditures by Private Individuals or Entities. 51 A.L.R.7th Art. 1 (2020).

7-6-210. Reports of contributions — Personal loans.

RESEARCH REFERENCES

ALR. Validity Under First Amendment of State Disclosure or Reporting Requirements of Political Contributions or Expenditures by Private Individuals or Entities. 51 A.L.R.7th Art. 1 (2020).

7-6-220. Reporting of independent expenditures.

RESEARCH REFERENCES

ALR. Validity Under First Amendment of State Disclosure or Reporting Requirements of Political Contributions or Expenditures by Private Individuals or Entities. 51 A.L.R.7th Art. 1 (2020).

7-6-223. Reports of contributions by political parties.

RESEARCH REFERENCES

ALR. Validity Under First Amendment of State Disclosure or Reporting Requirements of Political Contributions or Expenditures by Private Individuals or Entities. 51 A.L.R.7th Art. 1 (2020).

CHAPTER 7

NOMINATIONS AND PRIMARY ELECTIONS

SUBCHAPTER 1 — METHODS OF NOMINATION

7-7-103. Filing as an independent — Petitions — Disqualification.

CASE NOTES

Cited: Whitfield v. Thurston, 3 F.4th 1045 (8th Cir. 2021).

TITLE 9**FAMILY LAW*****SUBTITLE 1. GENERAL PROVISIONS*****CHAPTER 2****CHANGE OF NAME****9-2-101. Name change — Procedure.****RESEARCH REFERENCES**

ALR. Name Change Under State Sex Offender Registration Laws. 67 A.L.R.7th Art. 4 (2022).

9-2-102. Name change — Use of new name.**RESEARCH REFERENCES**

ALR. Name Change Under State Sex Offender Registration Laws. 67 A.L.R.7th Art. 4 (2022).

SUBTITLE 2. DOMESTIC RELATIONS**CHAPTER 9****ADOPTION****SUBCHAPTER 1 — GENERAL PROVISIONS****9-9-102. Preference to relative caregivers for a child in foster care — Religious preference — Removal of barriers to inter-ethnic adoption.****CASE NOTES****Preferential Consideration to Relative.**

Circuit court's denial of the relatives' petition to adopt twins was not clearly erroneous, even though the relatives' petition to adopt a sibling of the twins had been granted and a DHS family service worker supported the relatives' adopting the twins; the circuit court had held that it was not in the children's best interest to grant the relatives' petition as the chil-

dren had suffered severe trauma in their mother's home and were doing well in the care of their foster parents who were helping them heal. The twins' therapist recommended that the foster parents continue to care for them, and stated that their removal from the foster home would cause significant regression; because the adoption proceeding occurred following the termination of the mother's parental rights, the relatives were not entitled to the rela-

tive preference. *Mendez v. A.H.* (In re Adoption of S.C.), 2021 Ark. App. 387 (2021).

SUBCHAPTER 2 — REVISED UNIFORM ADOPTION ACT

RESEARCH REFERENCES

ALR. Uniform Adoption Act. 54
A.L.R.7th Art. 4 (2020).

9-9-202. Definitions.

RESEARCH REFERENCES

ALR. Uniform Adoption Act. 54
A.L.R.7th Art. 4 (2020).

9-9-203. Who may be adopted.

RESEARCH REFERENCES

ALR. Uniform Adoption Act. 54
A.L.R.7th Art. 4 (2020).

9-9-204. Who may adopt.

RESEARCH REFERENCES

ALR. Uniform Adoption Act. 54
A.L.R.7th Art. 4 (2020).

9-9-205. Jurisdiction — Venue — Inconvenient forum — Disclosure of name.

RESEARCH REFERENCES

ALR. Uniform Adoption Act. 54
A.L.R.7th Art. 4 (2020).

9-9-206. Persons required to consent to adoption — Consideration for relinquishing minor for adoption.

RESEARCH REFERENCES

ALR. Uniform Adoption Act. 54
A.L.R.7th Art. 4 (2020).

9-9-207. Persons as to whom consent not required.**RESEARCH REFERENCES**

ALR. Uniform Adoption Act. 54
A.L.R.7th Art. 4 (2020).

CASE NOTES**ANALYSIS****Consent Not Required.**

Failure to Communicate or Care and Support.

—**Failure to Provide for Care and Support.**

Consent Not Required.

Child's adoption by the stepfather was properly granted because the biological father's consent to the adoption was not required as he failed, without justifiable cause, to communicate with the child for more than a year; and the adoption was in the child's best interest as the stepfather was a loving and devoted stepfather who had been a stable and consistent part of the child's daily life for four years. *Skelton v. Davis*, 2021 Ark. App. 473, 639 S.W.3d 373 (2021).

Failure to Communicate or Care and Support.

—**Failure to Provide for Care and Support.**

In an adoption proceeding, the circuit court did not err by finding that the father's consent was not necessary either because he had abandoned the child (born in 2010) under subdivision (a)(1) of this section, or because he failed significantly without justifiable cause to provide for the care and support of the child under subdivi-

sion (a)(2) of this section. Concerning the support element, the father failed to make court-ordered child support payments for more than a year; instead, he only made sporadic gifts. The father's claim that he could not pay monetary support without income lacked merit, because he testified that he worked "off and on" and admitted that he owned a house, a truck, and other assets. *Arnold v. Przytarski* (In re AP), 2021 Ark. App. 440, 638 S.W.3d 293 (2021).

Circuit court's adoption order was reversed and dismissed as the circuit court clearly erred in finding that the biological father's consent was not required. Neither the divorce decree nor the closure order imposed any requirement that the father pay child support while his children were in the custody of the mother, and the evidence indicated that the mother never sought an order of support from the father and the adoptive parents even refused multiple support payments offered by him; the adoptive parents went to great lengths to prevent any and all contact or interaction between the father and the children, preventing him from fulfilling his court-ordered ability to exercise visitation and provide any means of physical, emotional, or financial support of his children, and there was no finding by the circuit court that the father failed to provide for the care of his daughters. *Hughes v. Elliott*, 2021 Ark. App. 486 (2021).

9-9-208. How consent is executed.**RESEARCH REFERENCES**

ALR. Uniform Adoption Act. 54
A.L.R.7th Art. 4 (2020).

9-9-209. Withdrawal of consent.**RESEARCH REFERENCES**

ALR. Uniform Adoption Act. 54
A.L.R.7th Art. 4 (2020).

9-9-212. Hearing on petition — Requirements.**RESEARCH REFERENCES**

ALR. Uniform Adoption Act. 54
A.L.R.7th Art. 4 (2020).

9-9-215. Effect of decree of adoption.**RESEARCH REFERENCES**

ALR. Uniform Adoption Act. 54
A.L.R.7th Art. 4 (2020).

CASE NOTES**ANALYSIS**

Termination of Legal Relationships.
—Grandparents.

Termination of Legal Relationships.
—Grandparents.

Adoption severs all familial ties, including any “relative” status that might otherwise exist under § 28-65-203. Thus,

children’s maternal grandmother, who was a convicted felon, was no longer a “relative” eligible to be the children’s guardian under § 28-65-203 after the children’s adult mother was adopted by her friends. However, the children’s maternal grandfather was still eligible to remain the children’s guardian. *Tapp v. Luper*, 2021 Ark. App. 444, 638 S.W.3d 18 (2021).

9-9-216. Appeal from and validation of adoption decree.**RESEARCH REFERENCES**

ALR. Uniform Adoption Act. 54
A.L.R.7th Art. 4 (2020).

9-9-217. Confidentiality of hearings and records.**RESEARCH REFERENCES**

ALR. Uniform Adoption Act. 54
A.L.R.7th Art. 4 (2020).

9-9-220. Relinquishment and termination of parent and child relationship.

RESEARCH REFERENCES

ALR. Uniform Adoption Act. 54 and Involuntary Terminations of Parental Rights, or Petitions Thereof. 61 A.L.R.7th Art. 4 (2020).
Interplay Between Parent's Voluntary Art. 4 (2021).

9-9-223. Termination of rights of nonparental relatives.

RESEARCH REFERENCES

ALR. Uniform Adoption Act. 54
A.L.R.7th Art. 4 (2020).

CHAPTER 10

PATERNITY

SUBCHAPTER 1 — GENERAL PROVISIONS

9-10-102. Actions governed by Arkansas Rules of Civil Procedure — Limitations periods — Venue — Summons — Transfer between local jurisdictions.

CASE NOTES

ANALYSIS

Child Support.
Venue.

Child Support.

Where a paternity action brought on daughter's behalf against defendant's estate was pending in Mississippi County and daughter filed an action for back child support in Washington County against the estate, the Washington County circuit court's dismissal of the Washington County action under Ark. R. Civ. P. 12(b)(8) was upheld. The daughter chose to establish paternity in Mississippi County, and if paternity was established in the Mississippi County case, this section provides that the paternity court shall retain jurisdiction of all matters following the decree unless transferred; and under the common law, when the same

action is pending in different courts with concurrent jurisdiction, the first court to exercise jurisdiction rightfully acquires control, and here, Mississippi County was the first court to exercise jurisdiction. *Shipley v. Gardner*, 2022 Ark. App. 22 (2022).

Venue.

Mother waived any argument regarding venue of the father's paternity action by entering into the temporary agreed order, which found that venue was proper; furthermore, the child spent the majority of her life at the time of the hearing with her father in Washington County and only spent a short amount of time with the mother in Marion County and only after her grandfather filed the petition for emergency relief, and Washington County had proper venue for the paternity determination. *Powers v. Martin*, 2021 Ark. App. 492 (2021).

9-10-104. Suit to determine paternity of child born outside of marriage.

RESEARCH REFERENCES

ALR. Presumption of Paternity Applied to Same-Sex Spouse. 60 A.L.R.7th Art. 6 (2021).

9-10-108. Paternity test.

RESEARCH REFERENCES

ALR. Presumption of Paternity Applied to Same-Sex Spouse. 60 A.L.R.7th Art. 6 (2021).

9-10-113. Custody of child born outside of marriage.

RESEARCH REFERENCES

ALR. Presumption of Paternity Applied to Same-Sex Spouse. 60 A.L.R.7th Art. 6 (2021).

9-10-120. Effect of acknowledgment of paternity.

RESEARCH REFERENCES

ALR. What Constitutes “Notorious Recognition” or “Notorious Acknowledgment” in Context of Parentage-Related Claims. 69 A.L.R.7th Art. 7 (2022).

9-10-121. Termination of certain parental rights for putative fathers convicted of rape.

RESEARCH REFERENCES

ALR. Interplay Between Parent’s Voluntary and Involuntary Terminations of Parental Rights, or Petitions Thereto. 61 A.L.R.7th Art. 4 (2021).

SUBCHAPTER 2 — ARTIFICIAL INSEMINATION

9-10-201. Child born to married or unmarried woman — Presumptions — Surrogate mothers.

CASE NOTES

Estoppel.

Lack of written consent under the artificial insemination statutes was not dispositive and the sperm donor failed to rebut the presumption that the mother’s husband was the child’s father; the par-

ties never intended for the sperm donor to act as the child’s father, the parties intended that the husband would be the child’s father, and the sperm donor’s involvement with the child did not rise to the level of a father. Rebutting the pre-

sumption was not in the child's best interest, and estoppel was established. *Allen v. Allen*, 2021 Ark. App. 263 (2021).

9-10-202. Supervision by physician — Written agreement.

CASE NOTES

Estoppel.

Lack of written consent under the artificial insemination statutes was not dispositive and the sperm donor failed to rebut the presumption that the mother's husband was the child's father; the parties never intended for the sperm donor to act as the child's father, the parties in-

tended that the husband would be the child's father, and the sperm donor's involvement with the child did not rise to the level of a father. Rebutting the presumption was not in the child's best interest, and estoppel was established. *Allen v. Allen*, 2021 Ark. App. 263 (2021).

CHAPTER 12

DIVORCE AND ANNULMENT

SUBCHAPTER 3 — ACTIONS FOR DIVORCE OR ALIMONY

9-12-312. Alimony — Child support — Bond — Method of payment — Definition.

CASE NOTES

ANALYSIS

Child Support.

—Change in Custody.

Modification.

—Child Support.

Child Support.

Circuit court did not err in its calculation of child support, assuming full-time employment for the mother at minimum wage. The circuit court specifically noted that the mother's economic need was, at least in part, voluntary. *Champlin v. Champlin*, 2021 Ark. App. 348, 634 S.W.3d 566 (2021).

—Change in Custody.

Trial court erred in failing to make a child support determination after chang-

ing custody of the child from the mother to the father. *Perrin-Reed v. Reed*, 2022 Ark. App. 24, 640 S.W.3d 15 (2022).

Modification.

—Child Support.

Circuit court erred by modifying child support in favor of the wife, because it did not fully comply with the revised Ark. Sup. Ct. Admin. Order No. 10, which required the court to consider payment of childcare expenses and healthcare expenses; and make an adjustment for actual days spent with each parent. *David v. David*, 2022 Ark. App. 177, 643 S.W.3d 863 (2022).

9-12-315. Division of property — Definition.**RESEARCH REFERENCES**

ALR. Spouse's Student Loan Debt as Marital or Separate Liability in Divorce Action. 57 A.L.R.7th Art. 3 (2021).

CASE NOTES**ANALYSIS**

Adequacy of Division.

Debts.

Findings Required.

Nonmarital Property.

Property.

—Business.

—Miscellaneous Personal Property.

—Retirement Plans, Pensions, Etc.

—Valuation.

Relationship to Alimony.

Adequacy of Division.

Circuit court did not err in its marital property division because the overall division of marital assets and debts was made as evenly as possible, although the court favored the wife in the distribution of the sale proceeds of the marital home. *Vaughn v. Vaughn*, 2021 Ark. App. 394 (2021).

Debts.

In a divorce proceeding, the circuit court did not clearly err in allocating debt to the wife for a loan taken from the husband's 401(k), because she used the funds to make a \$17,500 purchase while hospitalized and without his knowledge. In addition, the circuit court did not clearly err in its allocation of the medical bills; the husband followed the court's order and paid the wife's insurance until he lost his job and it was not possible to put the wife on his insurance plan at his new job. *McKamie v. McKamie*, 2021 Ark. App. 385 (2021).

Findings Required.

In a divorce proceeding, the circuit court's division of property was reversed in part because the order failed to divide or mention the husband's pension worth \$37,000. *McKamie v. McKamie*, 2021 Ark. App. 385 (2021).

Nonmarital Property.

In a divorce case, the appellate court was not left with a distinct and firm con-

viction that a mistake was made when the circuit court equally divided two nonmarital retirement accounts; the circuit court properly explained why it was equitable to make this division and cited subdivision (a)(2) of this section. *Joheim v. Joheim*, 2022 Ark. App. 210, 645 S.W.3d 363 (2022).

Property.**—Business.**

Wife's distributorship business, which was formed after the parties' first divorce but before the parties' remarriage, was a marital asset and subject to division; prior to the incorporation of the business as a closely held corporation during the parties' second marriage, the business was operated as a sole proprietorship by the wife, and the husband participated in the operation of the business to some extent, and certainly reaped benefits from its profits. *Wilcox v. Wilcox*, 2022 Ark. App. 18, 640 S.W.3d 408 (2022).

There was no clear error in the circuit court's valuation of a wife's distributorship business when the court found that an non-assignment clause in the distributorship agreement did not render the business valueless. Furthermore, although there was little financial documentation, largely due to the wife's failure to provide information, the husband's expert placed a value on the business based on the 2013 tax returns and a letter from a representative of the distributorship business addressing the profits of the business in two other years for which the wife failed to file tax returns. *Wilcox v. Wilcox*, 2022 Ark. App. 18, 640 S.W.3d 408 (2022).

—Miscellaneous Personal Property.

In a divorce decree, the circuit court did not abuse its discretion in finding that the cattle, tools and toolboxes, and the four-wheelers were marital property under this section based on the wife's testimony

as she was the more credible witness. *Branscum v. Branscum*, 2022 Ark. App. 126, 642 S.W.3d 270 (2022).

—Retirement Plans, Pensions, Etc.

In a divorce proceeding, the circuit court clearly erred by failing to place a value on the husband's military retirement benefits before allocating the entire amount to him because the husband was still an active member of the military and entitled to military retirement benefits for the remainder of his life, and the husband could not explain to the circuit court how to calculate his retirement and did not know whether the amount would be one-half his current pay of \$8,024 a month at the time of the divorce or two and a half times his number of years served. *Johnson v. Johnson*, 2021 Ark. App. 376, 635 S.W.3d 368 (2021).

A retirement account was the husband's separate property and, consequently, not subject to division. Despite the parties' prior divorce and remarriage, the retirement account always was held only in the husband's name, nothing in the record indicated that the husband had intended to bring the account back into the marital estate, and the husband kept the account separate and did not contribute into the account after the remarriage—unlike

with other retirement accounts that were held jointly with the wife. *Wilcox v. Wilcox*, 2022 Ark. App. 18, 640 S.W.3d 408 (2022).

—Valuation.

In a divorce decree, the trial court did not abuse its discretion in its marital property division under this section because it determined the fair market value of the parties' business was \$80,000 based on the husband's testimony, his personal knowledge and experience in the trucking industry, and the parties' income tax returns; most of the value was derived from the husband's personal goodwill. There was no need for the trial court to make findings on the factors listed in subdivision (a)(1)(A) of this section, because the trial court made as near an equal division of the marital property as possible. *Drummond v. Drummond*, 2022 Ark. App. 184 (2022).

Relationship to Alimony.

Alimony and property division are complementary devices that a circuit court employs to make the dissolution of a marriage as equitable as possible. *Vaughn v. Vaughn*, 2021 Ark. App. 394 (2021).

Cited: *Chism v. Chism*, 2021 Ark. App. 373 (2021).

9-12-320. Proceedings subsequent to decree — Change of venue.

CASE NOTES

Preservation for Appeal.

Father's argument concerning subdivision (a)(2)(C) of this section creating a presumption in his favor was not argued

below and therefore would not be considered on appeal of the denial of his motion to transfer venue. *Evans v. Carpenter*, 2022 Ark. App. 83, 642 S.W.3d 235 (2022).

CHAPTER 13

CHILD CUSTODY AND VISITATION

SUBCHAPTER 1 — GENERAL PROVISIONS

9-13-101. Award of custody — Definition.

RESEARCH REFERENCES

ALR. Visitation or Custody of Child Allegedly Conceived by Sexual Assault. 54 A.L.R.7th Art. 7 (2020).

CASE NOTES

ANALYSIS

Change in Custody Warranted.
 Child's Best Interest.
 Joint Custody.
 Standard of Review.

Change in Custody Warranted.

In a child custody case, given the standard of review and the special deference the appellate court gives trial courts to evaluate the witnesses, their testimony, and the children's best interest, the appellate court could not say that the trial court clearly erred in ordering a change of custody from the mother to the father; the trial court found that it was the mother's continued pattern of alienating behavior since the divorce and since the last order of custody and the negative effect of that on the child that created the need for a change in custody. *Perrin-Reed v. Reed*, 2022 Ark. App. 24, 640 S.W.3d 15 (2022).

Child's Best Interest.

Father clearly presented evidence that it was in the child's best interest that he be awarded custody where he owned his own home, was employed, had transportation, and had been the child's primary caretaker for the majority of her life; the circuit court explained its reasons for awarding custody to the father and emphasized the mother's lack of a driver's license and employment, and giving def-

erence to the circuit court's superior position to evaluate the credibility of the witnesses and evidence, the decision to award the father primary custody of the child was not clearly erroneous. *Powers v. Martin*, 2021 Ark. App. 492 (2021).

Joint Custody.

Award of joint custody was not in the best interest of a child conceived by artificial insemination; appellants, including the natural mother and the sperm donor, offered no argument disputing the circuit court's findings that custody with the legal father (who was assigned the female sex at birth and living as a male) was in the child's best interest, and they also did not dispute the court's findings regarding the mother's immaturity, lack of steady employment, and drug abuse. *Allen v. Allen*, 2021 Ark. App. 263 (2021).

Standard of Review.

Because the appellate court was not left with a definite and firm conviction that a mistake had been made, the appellate court did not reweigh the evidence differently than the circuit court regarding the propriety of joint custody of the parties' children and, as such, affirmed the decision to award joint custody. The circuit court gave deep and thoughtful consideration to both the mother's alcohol-related issues and the father's control issues and inflexibility. *Hamerlinck v. Hamerlinck*, 2022 Ark. App. 89, 641 S.W.3d 659 (2022).

9-13-103. Visitation rights of grandparents when child is in custody of parent — Definitions.

CASE NOTES

Adoption.

Circuit court erred in granting the paternal grandparents' petition for grandparent visitation as the adoption by the stepfather severed the grandparent-grandchild relationship; and the circuit

court had no authority to override the mother and stepfather's decision, as the child's parents, to deny such visitation. *Skelton v. Davis*, 2021 Ark. App. 473, 639 S.W.3d 373 (2021).

9-13-108. Visitation — Preference of child.**RESEARCH REFERENCES**

ALR. Visitation or Custody of Child Allegedly Conceived by Sexual Assault. 54 A.L.R.7th Art. 7 (2020).

SUBCHAPTER 4 — INTERNATIONAL CHILD ABDUCTION PREVENTION ACT**9-13-401. Title.****RESEARCH REFERENCES**

ALR. International Child Abduction Remedies Act (ICARA), 22 U.S.C. §§ 9001 et seq. (formerly 42 U.S.C. §§ 11601 et seq.), on Violation of Rights of Access or Visitation Rights. 64 A.L.R. Fed. 3d Art. 4 (2021).

9-13-403. Prevention of international child abduction.**RESEARCH REFERENCES**

ALR. International Child Abduction Remedies Act (ICARA), 22 U.S.C. §§ 9001 et seq. (formerly 42 U.S.C. §§ 11601 et seq.), on Violation of Rights of Access or Visitation Rights. 64 A.L.R. Fed. 3d Art. 4 (2021).

Provisional Remedies Under State and Federal Law Under Hague Convention on the Civil Aspects of International Child Abduction Remedies Act (ICARA), 22 U.S.C. § 9004. 67 A.L.R. Fed. 3d Art. 6 (2022).

9-13-406. Abduction prevention measures.**RESEARCH REFERENCES**

ALR. Provisional Remedies Under State and Federal Law Under Hague Convention on the Civil Aspects of International Child Abduction Remedies Act (ICARA), 22 U.S.C. § 9004. 67 A.L.R. Fed. 3d Art. 6 (2022).

9-13-407. Ex parte relief.**RESEARCH REFERENCES**

ALR. Provisional Remedies Under State and Federal Law Under Hague Convention on the Civil Aspects of International Child Abduction Remedies Act (ICARA), 22 U.S.C. § 9004. 67 A.L.R. Fed. 3d Art. 6 (2022).

CHAPTER 14
SPOUSAL AND CHILD SUPPORT

SUBCHAPTER 1 — GENERAL PROVISIONS

9-14-105. Petition for support — Definitions.

CASE NOTES

Cited: Shipley v. Gardner, 2022 Ark. App. 22 (2022).

9-14-106. Parents — Amount of support — Definition.

CASE NOTES

Guidelines.

Setting the amount of child support under the guidelines in effect at the time of the hearing on the matter was not an abuse of discretion; the argument that the

newer calculation guidelines should be applied was not made to the circuit court before the final order. Morris v. Morris, 2021 Ark. App. 415 (2021).

9-14-107. Change in income warranting modification — Definition.

CASE NOTES

Change of Circumstances Found.

Substantial decrease in the father's monthly income constituted a material change in circumstances pursuant to subdivision (a)(1) of this section; thus, the circuit court's finding that the father's

reduction in income was not a material change in circumstances was clearly erroneous. Maner v. Maner, 2021 Ark. App. 472, 639 S.W.3d 368 (2021) (decided under pre-2021 version of section).

SUBCHAPTER 2 — ENFORCEMENT GENERALLY

9-14-234. Arrearages — Redirection of child support — Finality of judgment — Definition.

CASE NOTES

Construction.

Circuit court erred by denying mother's request for unpaid child support accumulating between 2002 and 2008 because the motion was not barred by a January 2009 order that did not address those arrear-

ages; under subsections (b) and (c) of this section, once a child support payment is due, it is vested, and a debt is payable and remains so. Morin v. Singel, 2022 Ark. App. 82, 641 S.W.3d 672 (2022).

CHAPTER 15

DOMESTIC ABUSE ACT

SUBCHAPTER 1 — GENERAL PROVISIONS

9-15-103. Definitions.

CASE NOTES

Domestic Abuse.

Circuit court did not err in entering an order of protection against appellant preventing him from contacting appellee and their daughter as she and the child suffered domestic abuse at appellant's hands because, on Thanksgiving 2019, appellant shoved the child to the floor and subsequently took her to the back bedroom where he covered her in blankets to her neck and placed his leg on top of her to

hold her down; during that time, he was yelling at her to shut up and beating the wall above her head; appellant grabbed appellee by her shoulders and pushed her out of the house; appellee fell to her knees on the deck and suffered bruises in several areas of her body; and pictures of appellee's injuries were admitted without objection. *Joliff v. Wilson*, 2021 Ark. App. 430, 636 S.W.3d 390 (2021).

SUBCHAPTER 2 — JUDICIAL PROCEEDINGS

9-15-201. Petition — Requirements generally.

CASE NOTES

Evidence.

Circuit court's order of protection as to the children was erroneous because, although petitioner alleged that acts of domestic abuse were perpetrated against her in the presence of the children, neither her petition nor her testimony indi-

cated that respondent had committed any acts of physical harm, bodily injury, or assault against the children or that the children were ever in fear of such harm from him. *Morales v. Garcia*, 2021 Ark. App. 438 (2021).

9-15-202. Filing fees.

CASE NOTES

Other Claims.

Circuit court lacked subject-matter jurisdiction to impose a constructive trust in favor of a boyfriend based on unjust enrichment, because he did not appeal the court's grant of a domestic abuse order of protection to the girlfriend, he subsequently filed pleadings under the domestic-abuse docket number seeking relief on

issues that did not pertain to domestic abuse, he never paid a filing fee, his case was never "filed", and subsection (a)(2) of this section and Ark. R. Civ. P. 3(d) prohibit the assertion of a claim or counterclaim for other relief under the Domestic Abuse Act. *Redwine v. Coursey*, 2021 Ark. App. 417, 635 S.W.3d 520 (2021).

9-15-205. Relief generally — Duration.

CASE NOTES

ANALYSIS

Appeal.
Duration.
Evidence.

Appeal.

Appellate court declined to reverse a trial court’s finding that a complainant who filed for an order of protection failed to prove by a preponderance of the evidence that her spouse committed domestic abuse because of the conflicting testimony between the complainant and the spouse and the appellate court was not left with a definite and firm conviction that a mistake had been made. *Crews v. Crews*, 2022 Ark. App. 68, 640 S.W.3d 700 (2022).

Duration.

Ten-year order of protection was within the statutory range and thus was not an

abuse of discretion. *Stell v. Stell*, 2021 Ark. App. 478, 638 S.W.3d 855 (2021).

Evidence.

Circuit court’s order of protection as to the children was erroneous; although petitioner alleged that acts of domestic abuse were perpetrated against her in the presence of the children, neither her petition nor her testimony indicated that respondent had committed any acts of physical harm, bodily injury, or assault against the children or that the children were ever in fear of such harm from him. *Morales v. Garcia*, 2021 Ark. App. 438 (2021).

9-15-210. Contempt proceedings.

CASE NOTES

Violation of Protective Order.

Circuit court erred in failing to enter a finding of contempt against appellee for violation of an order of protection because the evidence clearly proved appellee violated the protective order as it specifically

forbade him from being at the parties’ residence; and he pleaded guilty in a district court to violating the protective order. *Sutterfield v. Sutterfield*, 2022 Ark. App. 73 (2022).

9-15-212. Effect of no contact order.

RESEARCH REFERENCES

ALR. No-Contact Orders as Violative of Parental Rights. 72 A.L.R.7th Art. 1 (2022).

9-15-215. Factors in determining custody and visitation.

RESEARCH REFERENCES

ALR. No-Contact Orders as Violative of Parental Rights. 72 A.L.R.7th Art. 1 (2022).

9-15-217. Order of protection — Violations — Domestic violence surveillance program — Global positioning devices — Definition.

RESEARCH REFERENCES

ALR. No-Contact Orders as Violative of Parental Rights. 72 A.L.R.7th Art. 1 (2022).

CHAPTER 19

UNIFORM CHILD-CUSTODY JURISDICTION AND ENFORCEMENT ACT

SUBCHAPTER 1 — GENERAL PROVISIONS

9-19-102. Definitions.

CASE NOTES

Child-Custody Proceeding.

Under the Uniform Child-Custody Jurisdiction and Enforcement Act, § 9-19-101 et seq., the circuit court did not err in finding subject-matter jurisdiction in a termination of parental rights case as the record was devoid of proof of a previous child custody determination regarding the children, and an order from another state was never presented; the mother tested positive for controlled substances in Arkansas at the birth of one of her children, which presented a need for immediate protection of the minor children since the mother was unable to appropriately care

for them at that time. *Defell v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 27 (2022).

There was sufficient evidence for the circuit court to continue jurisdiction in a termination of parental rights case because the children and mother had a significant connection with Arkansas, and the State had substantial evidence available concerning the children's care and protection; all the services provided to both the minor children and the mother were within Arkansas, and the mother had family there. *Defell v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 27 (2022).

SUBCHAPTER 2 — JURISDICTION

9-19-201. Initial child-custody jurisdiction.

CASE NOTES

Jurisdiction.

Under the Uniform Child-Custody Jurisdiction and Enforcement Act, § 9-19-101 et seq., the circuit court did not err in finding subject-matter jurisdiction in a termination of parental rights case as the record was devoid of proof of a previous child custody determination regarding the children, and an order from another state was never presented; the mother tested

positive for controlled substances in Arkansas at the birth of one of her children, which presented a need for immediate protection of the minor children since the mother was unable to appropriately care for them at that time. *Defell v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 27 (2022).

There was sufficient evidence for the circuit court to continue jurisdiction in a

termination of parental rights case because the children and mother had a significant connection with Arkansas, and the State had substantial evidence available concerning the children's care and

protection; all the services provided to both the minor children and the mother were within Arkansas, and the mother had family there. *Defell v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 27 (2022).

9-19-204. Temporary emergency jurisdiction.

CASE NOTES

Jurisdiction Proper.

Under the Uniform Child-Custody Jurisdiction and Enforcement Act, § 9-19-101 et seq., the circuit court did not err in finding subject-matter jurisdiction in a termination of parental rights case as the record was devoid of proof of a previous child custody determination regarding the children, and an order from another state was never presented; the mother tested positive for controlled substances in Arkansas at the birth of one of her children, which presented a need for immediate protection of the minor children since the mother was unable to appropriately care for them at that time. *Defell v. Ark. Dep't*

of Human Servs., 2022 Ark. App. 27 (2022).

Termination of the mother's parental rights was proper because no competing custody order was ever identified and, in the absence of any competing custody order or petition in Texas or any other state, the provisions of this section applied, and Arkansas then became the home state of the three children under the Uniform Child-Custody Jurisdiction and Enforcement Act. The circuit court did not err in continuing to exercise subject matter jurisdiction and such jurisdiction existed when the termination order was entered. *Trevino v. Ark. Dep't of Hum. Servs.*, 2022 Ark. App. 182, 645 S.W.3d 19 (2022).

9-19-209. Information to be submitted to court.

CASE NOTES

Jurisdiction Proper.

Termination of the mother's parental rights was proper because no competing custody order was ever identified and, in the absence of any competing custody order or petition in Texas or any other state, the provisions of § 9-19-204(b) applied, and Arkansas then became the home state

of the three children under the Uniform Child-Custody Jurisdiction and Enforcement Act. The circuit court did not err in continuing to exercise subject matter jurisdiction and such jurisdiction existed when the termination order was entered. *Trevino v. Ark. Dep't of Hum. Servs.*, 2022 Ark. App. 182, 645 S.W.3d 19 (2022).

SUBTITLE 3. MINORS

CHAPTER 26

RIGHTS RESPECTING BUSINESS AND PROPERTY

SUBCHAPTER 2 — ARKANSAS UNIFORM TRANSFERS TO MINORS ACT

RESEARCH REFERENCES

ALR. Uniform Transfers to Minors Act. 64 A.L.R.7th Art. 1 (2021).

9-26-202. Scope and jurisdiction.

RESEARCH REFERENCES

ALR. Uniform Transfers to Minors Act.
64 A.L.R.7th Art. 1 (2021).

9-26-203. Nomination of custodian.

RESEARCH REFERENCES

ALR. Uniform Transfers to Minors Act.
64 A.L.R.7th Art. 1 (2021).

9-26-204. Transfer by gift or exercise of power of appointment.

RESEARCH REFERENCES

ALR. Uniform Transfers to Minors Act.
64 A.L.R.7th Art. 1 (2021).

9-26-205. Transfer authorized by will or trust.

RESEARCH REFERENCES

ALR. Uniform Transfers to Minors Act.
64 A.L.R.7th Art. 1 (2021).

9-26-206. Other transfer by fiduciary.

RESEARCH REFERENCES

ALR. Uniform Transfers to Minors Act.
64 A.L.R.7th Art. 1 (2021).

9-26-207. Transfer by obligor.

RESEARCH REFERENCES

ALR. Uniform Transfers to Minors Act.
64 A.L.R.7th Art. 1 (2021).

CHAPTER 27

JUVENILE COURTS AND PROCEEDINGS

SUBCHAPTER 3 — ARKANSAS JUVENILE CODE

9-27-303. Definitions.

CASE NOTES

ANALYSIS

Aggravated Circumstances.
 Dependent-Neglected Juvenile.
 Neglect.
 Parent.
 Reasonable Efforts.

Aggravated Circumstances.

Finding by a circuit court in a dependency-neglect proceeding that one child was subjected to aggravated circumstances was appropriate based on the physical abuse of that child. However, the aggravated circumstances finding as to the other children was reversed because proof as to each child suffering aggravated circumstances was lacking. *Ussery v. Ark. Dep't of Hum. Servs.*, 2022 Ark. App. 250, 646 S.W.3d 266 (2022).

Dependent-Neglected Juvenile.

Evidence was sufficient to adjudicate two children dependent-neglected where the mother stated at the hospital that one child had gotten her foot stuck in a bicycle, the doctors diagnosed the foot injury as a burn that had not received proper care, and the medical care that the mother provided was inappropriate and harmful given the type and extent of the child's injury. *Christ v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 354, 635 S.W.3d 325 (2021).

Even if the mother's version of events of how a child injured her foot was believed, substantial evidence supported the adjudication of dependent-neglected as the mother admitted that about 10 days after the injury the child still could not walk or put weight on the foot, and the mother still had not sought any medical attention. *Christ v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 354, 635 S.W.3d 325 (2021).

Evidence was sufficient to support a finding of dependency-neglect as to all of a

parent's children because sufficient evidence showed that the children were at substantial risk of serious harm as a result of the parent's physical abuse of one of their siblings, as the children lived in the parent's home and witnessed the abuse of that child (one child made a video of the occurrence). In their forensic interviews, the children provided similar accounts of discipline that included the use of a back scratcher to hit hands, feet, and bottoms. *Ussery v. Ark. Dep't of Hum. Servs.*, 2022 Ark. App. 250, 646 S.W.3d 266 (2022).

Evidence of severe bruising to the child's back and bottom in various stages of healing and the mother's concession that the child was being abused by her then-boyfriend was sufficient to support the dependency-neglect findings. *Raynor v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 263, 646 S.W.3d 406 (2022).

Neglect.

Trial court clearly erred in denying a petition to adjudicate newborn twins as dependent-neglected because the evidence presented at the adjudication hearing showed that the mother tested positive for methamphetamine when the twins were born. With this proof, the Department of Human Services proved neglect under the definition of neglect in this section, which placed the twins at risk of serious harm. The trial court erred in requiring that the actual positive drug screen be introduced. *Ark. Dep't of Human Servs. v. Jackson*, 2021 Ark. App. 464, 636 S.W.3d 806 (2021).

Parent.

Circuit court erred by terminating the appellant's parental rights; although each of the grounds relied on required the Department of Health Services to prove that appellant was the child's parent, the record did not support any of the statutory

requirements and the circuit court at no point made a finding that appellant was a “parent” for purposes of the termination process. Instead, the record indicated that appellant was listed on the birth certificate (although a copy did not appear in the record) and that his attorney made a statement that appellant admitted he was the child’s father. *Dreher v. Ark. Dep’t of Human Servs.*, 2022 Ark. App. 64, 639 S.W.3d 899 (2022) (both DHS and the attorney *ad litem* conceded error) (decided prior to the 2021 amendment).

Because none of the trial court’s orders expressly found appellant to be a “parent,” and, in fact, they all uniformly referred to him as a putative parent, his status as a

“parent” was not established for purposes of the termination of parental rights process. *Campos v. Ark. Dep’t of Human Servs.*, 2022 Ark. App. 221, 644 S.W.3d 465 (2022).

Reasonable Efforts.

In order to find that a child is dependent-neglected, the Juvenile Code does not require that the circuit court find that reasonable efforts to prevent removal have been provided by the state. Further, the circuit court can dispense with the requirement of a reasonable-efforts finding when a child’s safety is a concern. *Ussery v. Ark. Dep’t of Hum. Servs.*, 2022 Ark. App. 250, 646 S.W.3d 266 (2022).

9-27-306. Jurisdiction.

RESEARCH REFERENCES

ALR. Uniform Adoption Act. 54
A.L.R.7th Art. 4 (2020).

9-27-309. Confidentiality of records — Definition.

CASE NOTES

Civil Action.

After a juvenile driver had hit and killed a pedestrian, the circuit court did not abuse its discretion when it released the transcripts of the juvenile-delinquency hearing to both the administrator

of the victim’s estate and the victim’s mother under subsection (f) of this section for the limited purpose of potential use in the pending civil suit. *R.G. v. State*, 2021 Ark. App. 241 (2021).

9-27-316. Right to counsel.

CASE NOTES

ANALYSIS

Right to Counsel.
Termination of Parental Rights.

Right to Counsel.

There was no violation of a parent’s statutory or constitutional right to appointed counsel in an adjudication hearing held via Zoom to determine if the parent’s children were dependent-neglected because the parent was appointed an attorney by *ex parte* order and the parent engaged a different attorney for the adjudication hearing. And although the circuit court’s determination to pro-

ceed without the parent’s attorney being present was inexplicable, when the parent’s attorney was late to the hearing, that issue was not preserved for appellate review because it was not raised below, either by the parent or her attorney. *Ussery v. Ark. Dep’t of Hum. Servs.*, 2022 Ark. App. 250, 646 S.W.3d 266 (2022).

Termination of Parental Rights.

Circuit court fulfilled its obligation to advise the father of his statutory right to counsel in the *ex parte* order for emergency custody where it expressly advised the father that he had a right to an attorney at each stage of the proceedings;

in addition, at the initial termination of parental rights hearing, the circuit court expressly advised the father that he could hire an attorney, he could have an attorney appointed to represent him if he were

indigent, or he could represent himself. The father never claimed to be indigent and he did not ask the court to appoint counsel for him. *Scott v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 494 (2021).

9-27-318. Filing and transfer to criminal division of circuit court.

CASE NOTES

ANALYSIS

- Factors Considered.
- Seriousness of Offense.
- Jurisdiction.
- Transfer to Juvenile Division Denied.

Factors Considered.

—Seriousness of Offense.

Circuit court's decision to keep the aggravated robbery charges in the criminal division was not clearly erroneous as subdivision (g)(1) of this section was interpreted to mean that a juvenile may be tried as an adult solely because of the serious and violent nature of the offense, and a single finding by the circuit court under that factor was sufficient. *Lopez v. State*, 2021 Ark. App. 467, 637 S.W.3d 318 (2021).

Jurisdiction.

While the circuit court was partially correct that subsection (d) of this section allows the filing of other charges that arise out of the same act or course of

conduct, the rest of subsection (d) states that the other charges may be filed only if, after a hearing before the juvenile division, a transfer was ordered and, on the record, there was no evidence that the juvenile division ordered a transfer of those charges; thus, as conceded by the State, the theft and aggravated assault charges were dismissed. *Lopez v. State*, 2021 Ark. App. 467, 637 S.W.3d 318 (2021).

Transfer to Juvenile Division Denied.

Trial court properly denied a juvenile defendant's motion to transfer because he shot his mother in the head as she sat on the couch looking at her phone, a detective testified that defendant falsified the events surrounding the homicide, attempted to evade discovery by falsifying his activities when the homicide occurred, and tampered with evidence by disposal of the firearm used in the homicide; there was no evidence that defendant was in need of services available in the juvenile court system. *Presley v. State*, 2022 Ark. App. 282, 645 S.W.3d 56 (2022).

9-27-325. Hearings — Generally.

CASE NOTES

ANALYSIS

- Burden of Proof.
- Evidence.

Burden of Proof.

Under this section, the burden of proof in dependency-neglect proceedings, including review and permanency-planning hearings, is by a preponderance of the evidence. *Cloird v. Young*, 2021 Ark. App. 271, 625 S.W.3d 739 (2021).

Evidence.

Evidence was sufficient to adjudicate two children dependent-neglected where the mother stated at the hospital that one child had gotten her foot stuck in a bicycle, the doctors diagnosed the foot injury as a burn that had not received proper care, and the medical care that the mother provided was inappropriate and harmful given the type and extent of the child's injury. *Christ v. Ark. Dep't of Human*

Servs., 2021 Ark. App. 354, 635 S.W.3d 325 (2021).

Even if the mother's version of events of how a child injured her foot was believed, substantial evidence supported the adjudication of dependent-neglected as the mother admitted that about 10 days after the injury the child still could not walk or put weight on the foot, and the mother

still had not sought any medical attention. *Christ v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 354, 635 S.W.3d 325 (2021).

Cited: *Walker v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 21, 640 S.W.3d 9 (2022); *Ussery v. Ark. Dep't of Hum. Servs.*, 2022 Ark. App. 250, 646 S.W.3d 266 (2022).

9-27-327. Adjudication hearing.

CASE NOTES

Reasonable Efforts.

In order to find that a child is dependent-neglected, the Juvenile Code does not require that the circuit court find that reasonable efforts to prevent removal have been provided by the state. Further,

the circuit court can dispense with the requirement of a reasonable-efforts finding when a child's safety is a concern. *Ussery v. Ark. Dep't of Hum. Servs.*, 2022 Ark. App. 250, 646 S.W.3d 266 (2022).

9-27-329. Disposition hearing.

CASE NOTES

Least Restrictive Disposition.

Appellate court rejected mother's least restrictive disposition argument that termination of parental rights was not necessary because her child was in the care of his paternal grandparents; the appellate court distinguished between a child living

with grandparents in a foster-care placement, as in this case, as opposed to a child placed in the legal custody of a relative. *Cummings v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 466, 636 S.W.3d 830 (2021).

9-27-334. Disposition — Dependent-neglected — Generally.

CASE NOTES

Permanent Custody.

Award of permanent custody of a child to the maternal grandmother, rather than to the paternal grandmother, was in the child's best interest because the trial court found that the child was doing well in the maternal grandmother's care, there was a favorable home study in place, and the

child was in a loving home where all of his health and safety needs were met. Furthermore, the trial court believed that if the paternal grandmother were granted permanent custody, the child's father would have contact with the child despite the no-contact order. *Cloird v. Young*, 2021 Ark. App. 271, 625 S.W.3d 739 (2021).

9-27-338. Permanency planning hearing.

CASE NOTES

Failure to Preserve.

In a parental rights termination case in which the Department of Human Services (DHS) did not join the petition for termination of parental rights and also ap-

pealed the termination, the appellate court held that the appellants' best interest argument concerning a less restrictive alternative with the child's paternal grandfather was procedurally barred. The

procedural bar stemmed from the failure to appeal the permanency planning order's change of the case goal from reunification or placement with a relative to adoption when the court found that the grandfather was not a fit relative for long-term placement in part due to concerns

about his diabetes (although the child had been placed with the grandfather and DHS had filed a guardianship petition requesting appointment of the grandfather as guardian). *Coulter v. Minor Child*, 2021 Ark. App. 398, 636 S.W.3d 377 (2021).

9-27-341. Termination of parental rights — Definition.

RESEARCH REFERENCES

ALR. Interplay Between Parent's Voluntary and Involuntary Terminations of Parental Rights, or Petitions Thereto. 61 A.L.R.7th Art. 4 (2021).

CASE NOTES

ANALYSIS

- Adoptability.
- Aggravated Circumstances.
- Appellate Review.
- Best Interest of Juvenile.
- Continuance Denied.
- Failure to Remedy.
- Father.
- Imprisonment.
- Placement With Relatives.
- Potential Harm.
- Subsequent Factors.
- Substance Abuse.
- Termination Not Proper.
- Termination Proper.

Adoptability.

In a parental rights termination case, there was sufficient evidence presented under this section regarding the likelihood that the four children would be adopted, and the circuit court appropriately considered this evidence in finding that termination of the mother's parental rights was in their best interest. *Williams v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 488, 639 S.W.3d 396 (2021).
Termination of the father's parental rights was in the child's best interest because the father physically abused the child, and caseworkers testified that with time to address the trauma the child suffered, there were no barriers to adoption; the circuit court considered the evidence on the child's adoptability, and there was no requirement that the State disprove all possible barriers to adoption, such as behavioral issues, by clear and convincing evidence. Further, (1) adoptability and (2)

potential for harm are not exclusive factors in the best interest determination. *Cullum v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 62, 639 S.W.3d 905 (2022).

Aggravated Circumstances.

In a termination of parental rights case, although the mother had made progress with her longstanding mental health issues and participated in counseling and other requirements, the circuit court did not clearly err in its aggravated circumstances finding, as the evidence supported the circuit court's finding that further services would not result in a successful reunification within a reasonable period of time as measured from the child's perspective and consistent with his developmental needs. *Fowler v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 307, 634 S.W.3d 535 (2021).
Circuit court properly terminated the father's parental rights to one of the children under the aggravated-circumstances ground because the aggravated-circumstances ground did not require the Department of Human Services to show that meaningful services toward reunification were provided, and there was no time component to the aggravated-circumstances ground. *Burks v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 309, 634 S.W.3d 527 (2021).
Sufficient evidence supported termination of a mother's rights under this section because the five-month-old child was clearly subjected to physical abuse that endangered her life; the mother was either a perpetrator of the physical abuse of the child, or at a minimum, the mother's

husband was the offender, and the mother failed to protect the child. *Gibby v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 146, 643 S.W.3d 794 (2022).

Circuit court properly found that termination of a mother's parental rights was supported by sufficient evidence on the aggravated-circumstances ground where she had refused drug tests, had not gained the skills needed to protect and parent her child despite completing parenting classes, and she had been dishonest during her drug and alcohol assessments. *Calloway v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 192, 644 S.W.3d 262 (2022).

Appellate Review.

Mother's appeal of the termination of her parental rights failed because she failed to raise her argument concerning the children's best interest to the circuit court. *Jackson v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 319 (2021).

Best Interest of Juvenile.

Circuit court properly terminated a mother's parental rights as in the child's best interests because the mother's lack of stable employment and housing persisted throughout the entire 20 months of the case, the mother had "on and off employment" with a temporary agency but her employment was not stable, and she was also unable to work for some months due to her incarceration. *Simmons v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 233, 638 S.W.3d 286 (2021).

Termination of the mother's parental rights was in the child's best interests because the mother failed to address her mental health through individual counseling, she could not keep her house free of trash and other hazards to a young toddler, and she responded to assistance with anger and apathy. *Hoggatt v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 318, 634 S.W.3d 779 (2021).

Termination of a mother's parental rights was not based only on her lack of financial means; there was evidence that the mother had made minimal progress toward reunification and lacked the ability to independently parent, and there was testimony that raised concerns about her lack of judgment and propensity to trust the children with inappropriate caregivers. *Kelley v. Ark. Dep't of Human*

Servs., 2021 Ark. App. 355, 635 S.W.3d 318 (2021).

Termination of a mother's rights was in the children's best interest where the mother waited until one day before the termination hearing to even put the children on a daycare waiting list, and because of her unstable lifestyle and commute, the children would have potentially ended up in the same situation, i.e., unintended, soaked in urine, and subject to a dangerous environment such as a bathtub full of water. *Gascot v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 57 (2022).

Appellate court could not say that the trial court clearly erred in terminating a mother's parental rights to her three children because she lacked stability with both her alleged sobriety and her housing, her past behavior indicated that she had not benefited long-term from drug treatment and could not remain sober, the Department of Human Services had been paying her rent, and she became employed only in the weeks leading up to the termination hearing. *Collier v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 100, 641 S.W.3d 67 (2022).

Termination of the mother's parental rights was in the child's best interest where the evidence and testimony showed that the mother was unable to control her anger as recently as the day before the termination hearing, her anger issues had resulted in her arrest, further aggressive behavior would have been traumatic for the child to witness, and the mother had refused to believe the child and accept the sexual abuse finding against her ex-boyfriend. *Calloway v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 192, 644 S.W.3d 262 (2022).

Circuit court's finding that termination of a father's parental rights was in the children's best interest was not disturbed where the father was essentially asking the appellate court to reweigh the evidence and arrive at a different outcome. Moreover, the evidence supported the finding where the children were removed due to the father's unfitness, the father had failed to remedy the conditions that caused removal, and despite the offer of services, he had failed to obtain and maintain safe, stable, and appropriate housing and had not completed all the services recommended for reunification. *Mills v.*

Ark. Dep't of Human Servs., 2022 Ark. App. 197, 644 S.W.3d 256 (2022).

Termination of the mother's parental rights was in the child's best interest because he would be at risk if returned to her custody; the child was able to thrive in foster care and gained 10 pounds during this time, and none of his other caregivers reported that they could not get him to eat full meals. *Hutton v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 242, 646 S.W.3d 215 (2022).

Continuance Denied.

Trial court did not abuse its discretion in denying the mother's motion for a continuance before terminating her parental rights to her three children; the mother had argued that a continuance would give her more time to show stability with sobriety and housing and emphasized that the father's part of the case had been continued. *Collier v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 100, 641 S.W.3d 67 (2022).

Failure to Remedy.

Trial court did not clearly err in finding that the failure to remedy ground supported the decision to terminate a mother's parental rights where she was aware that the maternal grandmother had recently placed the children in danger by leaving them unattended with prescription medication within reach, despite being advised not to leave the children with the grandmother, the mother went to Florida, and left the children in the grandmother's care, which resulted in one child's death, and her testimony about why she missed appointments and drug screening was not credible. *Cramer v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 292, 626 S.W.3d 147 (2021).

Clear and convincing evidence showed that a mother failed to remedy the conditions that caused the children's removal — inadequate supervision and failure to protect — where she had left her children alone in a dangerous environment so she could go to work, and after 15 months of services, she had not appropriately balanced her work and family life in a way that did not endanger them. Use of the term poor choices was not a generalized or abstract statement based on something such as overall evasiveness, but the mother's poor choices directly related to condi-

tions that caused removal. *Gascot v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 57 (2022).

Termination of a mother's parental rights was appropriate on the failure-to-remedy ground for custodial parents as the mother's children were removed from the mother's custody due to the condition of the RV in which the family was living and the mother's drug use, the mother continued to use drugs until a last-minute effort to remedy the problem, the Department of Human Services made reasonable efforts to provide family services, and the children's therapist testified that the mother's visits were not in the children's best interest. *Hodge v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 273, 646 S.W.3d 297 (2022).

Father.

Circuit court erred in terminating appellant's parental rights to one of the children because the circuit court did not make a specific finding that he was the "parent"; even though the circuit court treated appellant as a parent by making him a party, referring to him as the father and the parent, appointing him legal counsel, and ordering the Department of Human Services to provide him services and visitation and appellant did not complain, the circuit court did not resolve the matter before terminating appellant's parental rights. *Burks v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 309, 634 S.W.3d 527 (2021).

Circuit court erred by terminating the appellant's parental rights; although each of the grounds relied on required the Department of Health Services to prove that appellant was the child's parent, the record did not support any of the statutory requirements and the circuit court at no point made a finding that appellant was a "parent" for purposes of the termination process. Instead, the record indicated that appellant was listed on the birth certificate (although a copy did not appear in the record) and that his attorney made a statement that appellant admitted he was the child's father. *Dreher v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 64, 639 S.W.3d 899 (2022) (both DHS and the attorney ad litem conceded error) (decided prior to the 2021 amendment).

Imprisonment.

Termination of the father's parental rights was proper because the father had

been incarcerated since the proceeding initiated; the children had been out of the father's home for over 12 months; and he did not have a safe place for them at the time of termination. *Birdsong v. Ark. Dep't of Hum. Servs.*, 2022 Ark. App. 265 (2022).

Placement With Relatives.

In a parental rights termination case in which the Department of Human Services (DHS) did not join the petition for termination of parental rights and also appealed the termination, the appellate court held that the appellants' best interest argument concerning a less restrictive alternative with the child's paternal grandfather was procedurally barred. The procedural bar stemmed from the failure to appeal the permanency planning order's change of the case goal from reunification or placement with a relative to adoption when the court found that the grandfather was not a fit relative for long-term placement in part due to concerns about his diabetes (although the child had been placed with the grandfather and DHS had filed a guardianship petition requesting appointment of the grandfather as guardian). *Coulter v. Minor Child*, 2021 Ark. App. 398, 636 S.W.3d 377 (2021).

In a parental rights termination case, where the parents claimed that the father's sister was a possible placement for the children, the trial court did not err in proceeding with termination; while the sister might have been an option for future placement or adoption, she was not a viable permanent or stable option at the time of termination. *Aslakson v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 460, 637 S.W.3d 311 (2021).

Appellate court rejected mother's least restrictive disposition argument that termination of parental rights was not necessary because her child was in the care of his paternal grandparents; the appellate court distinguished between a child living with grandparents in a foster-care placement, as in this case, as opposed to a child placed in the legal custody of a relative. *Cummings v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 466, 636 S.W.3d 830 (2021).

In a termination of parental rights case, father's argument that the Department of Human Services failed to diligently pursue relative placement was not preserved

for appellate review because he failed to raise the argument in the circuit court. *Folsom v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 29 (2022).

Mother failed to comply with the case plan throughout the case, and there was little likelihood that further services would lead to successful reunification, and there was sufficient evidence to support the finding that immediate termination of the mother's parental rights was in the children's best interest; there was evidence suggesting that the maternal aunt was not an appropriate placement for the children, and the court was not required to delay permanency for the children in order to accommodate a relative who may not have been an appropriate placement. *Cancel v. Ark. Dep't of Hum. Servs.*, 2022 Ark. App. 198 (2022).

Potential Harm.

Termination of the father's parental rights was not clearly erroneous because, despite having been ordered to obtain stable housing and income from the outset of the case, the father failed to do so; the father testified that he lived with the mother but could live with his sister, his mother, or friends and that he had pain from a car accident that prevented him from keeping a job, and the CASA volunteer testified that the father had been denied disability benefits twice and had not sought employment (case also involved a relative placement issue). *Coulter v. Minor Child*, 2021 Ark. App. 398, 636 S.W.3d 377 (2021).

Termination of the mother's parental rights was in the child's best interest as the child faced potential harm if returned to the mother because she did not have a significant length of full compliance with the case plan; she had been living in her current home for only a month prior to the final termination hearing; she had been employed for only a couple of months; she had only recently completed parenting classes; and it was reasonable for the circuit court to question her assertion that she had finally resolved her drug addiction issues. *Jennings v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 429, 636 S.W.3d 119 (2021).

In a parental rights termination case, a parent's continued drug and/or alcohol use and failure to provide a stable home both supported the potential harm finding

made by the circuit court. *Jones v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 28 (2022) (no-merit brief).

Subsequent Factors.

Appellate court could not say that the trial court clearly erred in finding that the subsequent-factors ground supported termination of a father's parental rights; the father admitted that he had not attended meetings as requested by social services, he put his probation in danger of being revoked, he failed to complete all 12 hours of parenting classes, he missed visits with his children, he did not have housing of his own, and he only recently secured a job. *Younger v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 138 (2022).

Appellate court could not say that the trial court clearly erred in finding that the subsequent-factors ground supported the termination of a mother's parental rights; the mother did not have stable housing, she had not held down a job for four or five years before the children were removed, she admitted at the termination hearing that she did not have a job over the course of the entire case, which lasted for 14 months, until just before the termination hearing, she refused to acknowledge she had a drug problem, she failed to complete parenting classes, and she missed a significant number of visits with the children. *Younger v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 138 (2022).

Substance Abuse.

In a termination of parental rights action, the mother's claim that the circuit court focused almost exclusively on her prior drug abuse lacked merit, as the court found that the mother was arrested on new drug charges and was in jail for around five months of the case, she had two boyfriends who were incarcerated for drug-related crimes during the case, and her latest housing was appropriate but was too new to demonstrate stability. *Miller v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 280, 626 S.W.3d 136 (2021).

Mother admitted to last drinking in May or June and that she was arrested in June for public intoxication, she declined inpatient treatment after her last relapse because she feared losing her housing, and the child had been out of the home for two years at the time of the termination hearing, as opposed to one year; the moth-

er's argument that alcoholism was a disease that could never be cured was not preserved for appellate review. *Phillips v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 256 (2022).

Termination Not Proper.

Circuit court clearly erred by terminating the father's parental rights because throughout the case the father's close reciprocal relationship with the child had been evident, there was no evidence that any harm or real risk of potential harm was introduced into the child's life by the father's slight lapses in judgment or that her best interest would be served by having her father permanently and irrevocably removed from her life. *Mason v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 124, 642 S.W.3d 260 (2022).

Few consequences of judicial action are so grave as the severance of natural family ties; the fundamental liberty interest of natural parents in the care, custody, and management of their child does not evaporate simply because they have not been model parents or have lost temporary custody of their child to the State. *Mason v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 124, 642 S.W.3d 260 (2022).

Although the father may not have been a perfect parent, the law does not require him to be perfect to retain his parental rights. *Mason v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 124, 642 S.W.3d 260 (2022).

Because none of the trial court's orders expressly found appellant to be a "parent," and, in fact, they all uniformly referred to him as a putative parent, his status as a "parent" was not established for purposes of the termination of parental rights process. *Campos v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 221, 644 S.W.3d 465 (2022).

Termination Proper.

Termination of parental rights upheld based on severe injuries sustained by sibling. *Gibby v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 145, 643 S.W.3d 479 (2022).

Termination of the mother's parental rights was proper and in the child's best interests because she had pending criminal charges against her; she failed to remedy her substance use issues that

caused her daughter to be taken into the Department of Human Services' care; she had not demonstrated the ability to be a safe, appropriate parent to the child; and the bond between the mother and the child was not sufficient to prevent termination of her parental rights. *Lemon v. Ark. Dep't of Hum. Servs.*, 2022 Ark. App. 253 (2022).

Termination of parental rights upheld. *Brewer v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 335 (2021); *Alexander v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 345, 634 S.W.3d 807 (2021); *Jackson v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 350, 635 S.W.3d 336 (2021); *Nichols v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 420, 636 S.W.3d 114 (2021); *Carr v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 476, 638 S.W.3d 21 (2021); *Walker v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 21, 640 S.W.3d 9 (2022); *Garner v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 33, 639 S.W.3d 421 (2022); *Henry v.*

Ark. Dep't of Human Servs., 2022 Ark. App. 63, 639 S.W.3d 924 (2022); *Core v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 79, 640 S.W.3d 716 (2022); *Isom v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 159 (2022); *Schultz v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 175, 643 S.W.3d 856 (2022); *Tate v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 176, 643 S.W.3d 850 (2022); *Atwood v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 230 (2022).

Termination of parental rights upheld (no-merit brief). *Rauls v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 366 (2021); *Williams v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 386 (2021); *Rocha v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 454, 637 S.W.3d 299 (2021); *Cox v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 26 (2022); *Cullum v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 34 (2022); *Yancy v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 35 (2022); *Hoy v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 237 (2022).

9-27-345. Admissibility of evidence.

RESEARCH REFERENCES

ALR. Sufficiency of Colloquy to Parent to Allow Admissions of Juvenile. 63 A.L.R.7th Art. 3 (2021).

9-27-353. Duties and responsibilities of custodian.

CASE NOTES

Cited: *Macklin v. Ark. Dep't of Human Servs.*, 2021 Ark. 151, 624 S.W.3d 869 (2021).

9-27-356. Juvenile sex offender assessment and registration.

CASE NOTES

Registration Proper.

Clear and convincing evidence supported the circuit court's decision to require appellant, a juvenile found to have committed rape and introduction of a controlled substance into the body of another, to register as a sex offender, as the offenses were considered very serious, he

used medication to render his grandmother incapable of keeping the victim safe, and he had been adjudicated of more than one sexual offense and the abuse of his sister was chronic and lengthy. *W.H. v. State*, 2021 Ark. App. 504, 638 S.W.3d 329 (2021).

9-27-360. Review of termination of parental rights.

RESEARCH REFERENCES

ALR. Interplay Between Parent's Vol- Parental Rights, or Petitions Thereto. 61
untary and Involuntary Terminations of A.L.R.7th Art. 4 (2021).

SUBCHAPTER 5 — EXTENDED JUVENILE JURISDICTION

9-27-502. Competency — Fitness to proceed — Lack of capacity.

CASE NOTES

Juvenile Proceedings.
Where defendant juvenile was adjudicated delinquent for capital murder and aggravated robbery, the circuit court did not clearly err by finding him fit to proceed. The circuit court relied on the testimony of a licensed forensic psychologist who was a qualified expert within the meaning of subdivision (b)(2) of this section; there was evidence that the expert had performed over 250 fitness-to-proceed examinations and at least 35 of those had been of juveniles. A.M. v. State, 2021 Ark. App. 418 (2021) (decided under former version of statute).

CHAPTER 28

PLACEMENT AND DETENTION PROGRAMS

SUBCHAPTER 1 — CHILDREN AND FAMILY SERVICES

9-28-105. Preference to relative caregivers for a child in foster care.

CASE NOTES

Placement With Relatives.
Circuit court's denial of the relatives' petition to adopt twins was not clearly erroneous, even though the relatives' petition to adopt a sibling of the twins had been granted and a DHS family service worker supported the relatives' adopting the twins; the circuit court had held that it was not in the children's best interest to grant the relatives' petition as the children had suffered severe trauma in their mother's home and were doing well in the care of their foster parents who were helping them heal. The twins' therapist recommended that the foster parents continue to care for them, and stated that their removal from the foster home would cause significant regression; because the adoption proceeding occurred following the termination of the mother's parental rights, the relatives were not entitled to the relative preference. Mendez v. A.H. (In re Adoption of S.C.), 2021 Ark. App. 387 (2021).

TITLE 10

GENERAL ASSEMBLY

CHAPTER

3. COMMITTEES.

CHAPTER 2

LEGISLATIVE PROCEEDINGS

SUBCHAPTER.

1. GENERAL PROVISIONS.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

10-2-125. Employees.

10-2-133. Increased cost obligations for health benefit plans — Fiscal impact statement required — Definitions.

Effective Dates. Acts 2021 (2nd Ex. Sess.), No. 11, § 2: Dec. 9, 2021. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the safety of the members of the General Assembly, its staff, and the public is paramount while the General Assembly conducts its business both at the State Capitol and elsewhere around the state. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2022, No. 112, § 3: Mar. 1, 2022. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the State

and Public School Life and Health Insurance Program is inadequate to provide sustainable affordable health benefits for public school employees and state employees; that an urgent need exists to address the state's funding and administration of benefits for public school employees and state employees in order for the program to remain viable and to avoid severe financial hardship to plan participants; and that this act is immediately necessary to provide affordable health benefit options in a timely manner to the state's public school employees participating in the program and state employees participating in the program. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

10-2-125. Employees.

(a) The House Management Committee with the approval of the Speaker of the House of Representatives may employ at its discretion employees of the House of Representatives and may transfer or dis-

charge any employee if it is deemed in the best interest of the House of Representatives.

(b)(1) The Senate Efficiency Committee at its discretion and subject to the approval of the Senate may employ, transfer, or discharge Senate employees if it is determined by the Senate Efficiency Committee to be in the best interest of the Senate.

(2) The actual salaries to be paid to employees of the Senate shall be determined by the Senate Efficiency Committee within the funds, appropriations, and maximum annual salaries as may be available.

(c)(1) Both the House of Representatives and the Senate may hire and employ in the manner described under this section security personnel to maintain peaceful order and provide protection to the members and staff of the General Assembly during meetings or other official functions of the General Assembly.

(2)(A) Personnel designated by the House of Representatives or the Senate as security personnel are considered full-time law enforcement officers with the full range of responsibilities and authority as are afforded to a law enforcement officer certified by the Arkansas Commission on Law Enforcement Standards and Training.

(B) The House of Representatives and the Senate may set their own training and qualification standards for security personnel employed by the respective chamber.

(C) The commission shall permit security personnel employed by the General Assembly access to all law enforcement training generally available to other law enforcement personnel and shall make the law enforcement certification process available to security personnel employed by the General Assembly.

(3) Security personnel employed by the House of Representatives or the Senate shall have statewide jurisdiction while the security personnel are acting within the scope of their employment.

History. Acts 1991, No. 1, § 2; 1991, No. 2, § 4; 1991, No. 30, §§ 7, 8; 1993, No. 671, § 7; 1995, No. 143, § 7; 2005, No. 693, § 8; 2021 (2nd Ex. Sess.), No. 11, § 1.

Amendments. The 2021 (2nd Ex. Sess.) amendment added (c).

10-2-133. Increased cost obligations for health benefit plans — Fiscal impact statement required — Definitions.

(a) As used in this section:

(1) "Entity of the state" means any agency, board, bureau, commission, committee, council, department, division, institution of higher education, office, public school, quasi-public organization, or other political subdivision of the state;

(2) "Fiscal impact statement" means a realistic written statement of the purpose of a proposed law and the estimated financial cost to an entity of the state for implementing or complying with the proposed law; and

(3) "Health benefit plan" means a policy, contract, certificate, or agreement offered or issued by an entity to provide, deliver, arrange for, pay for, or reimburse any of the costs of healthcare services, including pharmacy benefits, to an entity of the state.

(b)(1) A bill filed in the House of Representatives or the Senate that will impose a new or increased cost obligation for health benefit plans, including pharmacy benefits, on an entity of the state shall:

(A) Have a fiscal impact statement attached to the bill prepared and filed with the chair of the committee to which the bill is referred; and

(B) Not be taken up by the committee to which the bill is referred until a fiscal impact statement is provided to the chair of the committee.

(2) The services of actuaries may be obtained in evaluating the respective bills and preparing the fiscal impact statement.

(c)(1)(A) If a House bill or Senate bill is called up for final passage in the House of Representatives or the Senate and a fiscal impact statement has not been provided by the author of the bill or by the committee to which the bill was referred, a member of the House of Representatives or the Senate may object to the bill's being called up for final passage until a fiscal impact statement is prepared and made available on the desk of each member of the House of Representatives or the Senate at least one (1) day before the bill's being called up for final passage.

(B) An affirmative vote of two-thirds ($\frac{2}{3}$) of a quorum present and voting shall override the objection.

(2) If an objection is made without override, the presiding officer of the House of Representatives or the Senate shall cause the bill to be referred to an actuary for the preparation of a fiscal impact statement, which shall be filed with the presiding officer not later than five (5) days from the date of the request.

(d) A fiscal impact statement required by this section shall be developed by an actuary within the guidelines adopted by the House Committee on Insurance and Commerce and the Senate Committee on Insurance and Commerce, as applicable.

History. Acts 2022, No. 112, § 1.

CHAPTER 3

COMMITTEES

SUBCHAPTER.

3. LEGISLATIVE COUNCIL.

SUBCHAPTER 3 — LEGISLATIVE COUNCIL

SECTION.

10-3-320. Employee Benefits Division
Oversight Subcommittee
— Definition.

Effective Dates. Acts 2022, No. 113, § 4: Mar. 1, 2022. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the State and Public School Life and Health Insurance Program is inadequate to provide sustainable affordable health benefits for public school employees and state employees; that an urgent need exists to address the state's funding and administration of benefits for public school employees and state employees in order for the program to remain viable and to avoid severe financial hardship to plan participants; and that this act is immediately necessary to provide afford-

able health benefit options in a timely manner to the state's public school employees participating in the program and state employees participating in the program. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

10-3-320. Employee Benefits Division Oversight Subcommittee — Definition.

(a) The Legislative Council shall establish by rule the Employee Benefits Division Oversight Subcommittee, which shall have oversight of all decisions of the State Board of Finance related to the State and Public School Life and Health Insurance Program.

(b) The following decisions of the board pertaining to the program shall be referred to the Employee Benefits Division Oversight Subcommittee:

(1)(A) A new or significantly modified cost-containment measure.

(B) As used in this subdivision (b)(1), "cost-containment measure" means a process or practice of controlling and managing expenses of the program by reducing or limiting the amount of spending required to administer the program and remain within specific, preplanned budgetary constraints;

(2) Any change in plan options offered under the program for state employees or public school employees;

(3) Potential funding changes to the program;

(4) Any premium increases or decreases over the previous plan year;

(5) Any concern involving the reserve balance for state employees or public school employees;

(6) Changes to the four-year projections for the program;

(7) Changes that would limit, eliminate, or increase benefits of plan options offered under the program and the effect these changes would have on the fiscal viability of the program, including the reserve balance for state employees or public school employees;

(8) Changes that would limit, eliminate, or increase eligibility requirements for the program;

(9) Vendor issues or changes in vendors from the previous plan year;

(10) Proposed contracts or changes in contracts from the previous plan year;

(11) Any change in consultants from the previous plan year;

(12) Rules promulgated by the board or by the Employee Benefits Division regarding the implementation, administration, or enforcement of the program; and

(13) Such other matters related to the program as the Employee Benefits Division Oversight Subcommittee considers necessary to perform its oversight of all matters related to the program.

(c)(1) Except as provided in subdivision (c)(2) of this section, if a matter referred to the Employee Benefits Division Oversight Subcommittee under subsection (b) of this section would otherwise require review or approval, or both, by a subcommittee of the Legislative Council, the Employee Benefits Division Oversight Subcommittee shall serve as the subcommittee of the Legislative Council that performs the required review or approval, or both, of the matter.

(2) Proposed rules submitted to the Employee Benefits Division Oversight Subcommittee under this section are not subject to approval by the Employee Benefits Division Oversight Subcommittee but are submitted for review purposes only.

(d)(1) During a regular, fiscal, or extraordinary session of the General Assembly, the Joint Budget Committee shall perform the functions assigned to the Employee Benefits Division Oversight Subcommittee.

(2) The Joint Budget Committee may establish a subcommittee to perform the functions of the Employee Benefits Division Oversight Subcommittee that are assigned to the Joint Budget Committee under subdivision (d)(1) of this section.

History. Acts 2022, No. 113, § 1.

A.C.R.C. Notes. Acts 2022, No. 113, § 3, provided: "Study of general diabetes management program — Legislative findings — Reporting requirements.

"(a) The General Assembly finds that:

"(1) Optimal health results and realizing the maximum potential of a well-being program can be achieved through sustained behavior changes and healthy habits;

"(2) Well-being programs are most successful when the well-being programs focus on results-based outcomes;

"(3) Well-being programs have a higher return on investment if well-being programs that are results-based are focused on the highest risk population;

"(4) In 2019, there were over three hundred sixty thousand (360,000) Arkansans with diabetes, and almost eight hundred thousand (800,000) Arkansans had pre-diabetes;

"(5) The annual medical cost related to diabetes and prediabetes in Arkansas has recently been estimated at three billion one hundred million dollars

(\$3,100,000,000), including the cost of prescription drugs used to treat diabetes;

"(6) The diabetes epidemic has an associated fiscal and societal impact on the viability and sustainability of the State and Public School Life and Health Insurance Program;

"(7) If the State and Public School Life and Health Insurance Program fails to address and properly manage diabetes as a chronic illness, there may be an increase in diabetes-related complications, including without limitation heart disease, stroke, and kidney damage; and

"(8) In order to demonstrate the effectiveness of a well-being program that is focused on results-based outcomes and sustained behavior changes, additional data is needed.

"(b) The Employee Benefits Division Oversight Subcommittee with the cooperation of the Director of the Employee Benefits Division shall study general diabetes management programs to evaluate the viability and sustainability of a general diabetes management program for the State and Public School Life and

Health Insurance Program.

“(c) The study under subsection (b) of this section shall include:
“(1) Evaluating possible general diabetes management programs for managing diabetes of members of the State and Public School Life and Health Insurance Program; and
“(2) Developing recommendations for potential legislation for the 2025 Regular

Session of the General Assembly that are necessary to implement a general diabetes management program for the State and Public School Life and Health Insurance Program.
“(d) A report summarizing the results of the study under this section shall be filed with the Legislative Council no later than July 1, 2024.”

TITLE 11

LABOR AND INDUSTRIAL RELATIONS

CHAPTER.

5. WORKING CONDITIONS GENERALLY.
10. DIVISION OF WORKFORCE SERVICES LAW.

CHAPTER 1

GENERAL PROVISIONS

SUBCHAPTER 2 — EMPOWER INDEPENDENT CONTRACTORS ACT OF 2019

RESEARCH REFERENCES

ALR. Misclassification of Individual as Independent Contractor as Violating

State Statute or Public Policy. 52 A.L.R.7th Art. 6 (2020).

11-1-204. Determination of employment status.

RESEARCH REFERENCES

ALR. Misclassification of Individual as Independent Contractor as Violating

State Statute or Public Policy. 52 A.L.R.7th Art. 6 (2020).

CHAPTER 4

WAGE AND HOUR REGULATION GENERALLY

SUBCHAPTER 2 — MINIMUM WAGE LAW

11-4-211. Overtime.

RESEARCH REFERENCES

ALR. Small Vehicle Exception to Motor Carrier Act Entitling Certain Drivers to

Overtime Pay. 55 A.L.R. Fed. 3d Art. 2 (2020).

CHAPTER 5

WORKING CONDITIONS GENERALLY

SUBCHAPTER.

1. GENERAL PROVISIONS.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

11-5-118. Exemption for employees from mandates related to coronavirus 2019 (COVID-19).

Effective Dates. Identical Acts 2021 (Extended Sess.), Nos. 1113 and 1115, § 3: Emergency clause failed to pass. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that mandates forcing actions related to coronavirus 2019 (COVID-19) vaccinations are an overreach of authority; that vaccination mandates will be imposed on many employers and employees in Arkansas; that employees are facing impending terminations related to exercising their rights to refuse a vaccination; and that this act is immedi-

ately necessary to protect the people of Arkansas from this type of overreach. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

11-5-118. Exemption for employees from mandates related to coronavirus 2019 (COVID-19).

(a) An employer that requires or is mandated to require vaccination or immunization for coronavirus 2019 (COVID-19) or its variants for its employees shall provide a specific exemption process.

(b) The specific exemption process shall include options that allow the employee to produce either:

(1) A negative antigen detection test result or molecular diagnostic test result no more than one (1) time per week showing that the employee is not positive for coronavirus 2019 (COVID-19); or

(2) Proof of immunity for the virus that causes coronavirus 2019 (COVID-19) or its variants, including without limitation the presence of antibodies, T cell response, or proof of a positive coronavirus 2019 (COVID-19)-or-its-variants test, on a basis of two (2) times per year, not to exceed one (1) time every six (6) months, from a licensed healthcare provider.

(c)(1) If multiple proven test processes are available to an employee under subsection (b) of this section, the employee may choose which test to take.

(2) The employee may provide test results obtained outside of the employer or a licensed healthcare provider if the test meets the guidelines contained within the Policy for Coronavirus Disease-2019 Tests During the Public Health Emergency (Revised) issued by the United States Department of Health and Human Services Food and Drug Administration Center for Devices and Radiological Health.

(3)(A) The cost of the testing shall be covered through any state or federal funding made available, including without limitation coronavirus 2019 (COVID-19) relief funds distributed from the American Rescue Plan Act of 2021, Pub. L. No. 117-2, if the employee's health benefit plan does not provide coverage for the testing.

(B) In the event that the cost of testing under subdivision (c)(3)(A) of this section is not available, the cost of the testing shall be covered by the employee.

(d) An employer shall provide the specific exemption process required under this section in addition to any other exemptions offered by the employer.

(e) If an employee complies with the requirements of the specific exemption process related to coronavirus 2019 (COVID-19) as required by this section, the employee shall not be terminated for mandates related to coronavirus 2019 (COVID-19).

(f) Nothing in this section should be interpreted to modify any other agreements between the employer and employee or to amend or affect the employment-at-will doctrine, whether written or otherwise.

(g) The Department of Finance and Administration shall establish rules regarding the method of distribution of coronavirus 2019 (COVID-19) relief funds from the American Rescue Plan Act of 2021, Pub. L. No. 117-2, to employees and employers to cover the cost of testing, to include without limitation the:

(1) Timely distribution of funds to recipients within thirty (30) days;

(2) Establishment of an option for distribution to an employer that chooses to receive funds for disbursement to employees; and

(3) Verification and method of authentication of receipts that shall meet legislative auditing requirements, including without limitation the development of forms.

(h) The Department of Finance and Administration shall report to the Legislative Council on a monthly basis on the disbursement of funds under this section.

(i) If an employee is terminated due to the employer's violation of this section, the employee may be eligible for unemployment benefits in addition to any other remedy available to the employee.

(j) This section shall expire on July 31, 2023, unless extended by the General Assembly.

History. Acts 2021 (Extended Sess.), No. 1113, § 2; 2021 (Extended Sess.), No. 1115, § 2.

A.C.R.C. Notes. Identical Acts 2021 (Extended Sess.), Nos. 1113 and 1115, § 1,

provided: "Legislative findings and intent.

"(a) The General Assembly finds that:

"(1) The United States Government is mandating that employers take actions related to coronavirus 2019 (COVID-19)

vaccinations, including forcing an employee to be vaccinated against the employee's will;

"(2) Vaccination mandates are an overreach of authority;

"(3) Many employers and employees in Arkansas will soon be subject to this vaccination mandate; and

"(4) Arkansas employees need to be protected from this type of overreach.

"(b) The General Assembly intends for this act to:

"(1) Protect employees in Arkansas from impending terminations due to vaccination mandates; and

"(2) Create the ability for funding to be available to assist employees in Arkansas with the costs associated with testing related to the vaccination mandate through the methods provided in this act, including without limitation coronavirus 2019 (COVID-19) relief funds distributed from the American Rescue Plan Act of 2021, Pub. L. No. 117-2."

CHAPTER 9

WORKERS' COMPENSATION

SUBCHAPTER 1 — GENERAL PROVISIONS

11-9-102. Definitions.

CASE NOTES

ANALYSIS

Healing Period.

Injury.

—Arising Out of and in the Course of Employment.

—Causal Connection.

—Not Shown.

—Performing Employment Services.

—Specific Incident.

Objective Findings.

Healing Period.

Workers' Compensation Commission did not err in finding that the claimant was not entitled to temporary total disability benefits after August 19, 2019, as he reached the end of his healing period on August 19, 2019, when he was released to return to work; a doctor opined on that date that the claimant was clinically okay, and, although he might still experience pain, he was released to resume work; and he worked at a new job after being released by the doctor until he was laid off due to the pandemic. *Allen v. Staffmark Invs.*, 2022 Ark. App. 252, 646 S.W.3d 646 (2022).

Injury.

—Arising Out of and in the Course of Employment.

Workers' Compensation Commission properly found that an employee sustained a compensable injury and that he was entitled to temporary total-disability benefits up to a certain date because there was evidence in the record that he was taken off work by his treating physician, in part, because of a back strain, and even though the doctor was unsure about whether the greater issue—possible cancerous mass—was within workers' compensation, the employer was required to take the employee as he found him and employment circumstances that aggravate preexisting conditions are compensable; and the employee necessarily did not refuse suitable employment under § 11-9-526 because he was in his healing period. *Bradford v. Stracener Bros. Constr. Corp.*, 2021 Ark. App. 316 (2021).

—Causal Connection.

Workers' Compensation Commission erred in finding that the claimant's cardiac injury was not compensable where it

made a factual finding that it was impossible for his cardiac illness to have been caused by a poultry-related virus based on the opinion of an infectious disease and internal medicine specialist, but that specialist had not offered that opinion. Instead, he said he was unaware of such a virus and that the claimant's long-duration symptoms were not consistent with a virus. Thus, the Commission misconstrued what the specialist actually said, and its conclusion was based on a misstatement. *Johnson v. Peco Foods*, 2022 Ark. App. 187 (2022).

—Not Shown.

Workers' Compensation Commission properly found that an employee failed to establish that she sustained a compensable injury from lifting a coffee pot; although the employee attempted to justify the numerous inconsistencies and contradictions in her testimony and the record, none of her arguments supported a reversal of the Commission's decision. *Jones v. Embassy Suites*, 2021 Ark. App. 312 (2021).

—Performing Employment Services.

There was a substantial basis for the denial of workers' compensation benefits as the claimant was not within the time and space boundaries of his employment when he was injured because, at that time, he was sleeping, which was not inherently necessary for the performance of his job as a "hot walker" of racing horses, and he was not indirectly advancing his employer's interest; the fire occurred before his work began; and he was free to do as he pleased and had no employment obligation of any kind as he slept in a room above the stables provided for his convenience. *Lopez v. James Divito Racing Stable*, 2021 Ark. App. 257, 625 S.W.3d 742 (2021).

Evidence supported the Workers' Compensation Commission's conclusion that the employee truck driver was performing employment services because at the time of the injury, claimant was indirectly advancing the benefit of the employer and was doing something inherently necessary for the performance of his primary job: claimant was removing his personal items from the employer's truck so he could clean and sanitize it, and the cleaning of the truck was required by the em-

ployer. *Wal-Mart Assocs. v. Anderson*, 2022 Ark. App. 12, 640 S.W.3d 4 (2022).

—Specific Incident.

Substantial evidence supported the Workers' Compensation Commission's finding that the claimant sustained a compensable specific-incident right ankle injury because she was walking at work when she turned into a patient's room and felt and heard a pop in her ankle; she reported the incident to two coworkers that day and to a third coworker on April 17; she testified that her ankle was bruised and swollen after the incident; she sought medical treatment two days after the incident, and the medical reports reflected that she had swelling, bruising, and a tear in a tendon in her right ankle; and there was no evidence that the claimant suffered from any preexisting conditions that could have caused her ankle injury. *White County Med. Ctr. v. Johnson*, 2022 Ark. App. 262, 646 S.W.3d 245 (2022).

Objective Findings.

There was substantial evidence to support the Workers' Compensation Commission's decision that the employee proved that injuries to his left arm and shoulder were compensable because the Commission apparently believed the employee's testimony that his entire left side hurt after the truck knocked him to the ground, and the Commission pointed to objective findings by doctors that included abrasions, contusions, and swelling. *Bronco Indus. Servs., LLC v. Brooks*, 2021 Ark. App. 279, 625 S.W.3d 753 (2021).

Workers' Compensation Commission properly found that a claimant sustained a compensable injury to her back. The Commission determined that the medical evidence was supported by objective findings, including a diagnosis of lumbar disc herniation, and it was up to the Commission to resolve conflicting medical opinions and evidence. *Sheridan Sch. Dist. v. Wise*, 2021 Ark. App. 459, 637 S.W.3d 280 (2021).

Substantial evidence supported the Workers' Compensation Commission's decision that the claimant was entitled to a 7% impairment rating as his MRIs showed a disc abnormality, and his treating physician assessed the claimant at a 7% impairment rating using the AMA

Guides. North Hills Surgery Ctr. v. Otis, 2021 Ark. App. 468, 638 S.W.3d 323 (2021).

Worker's Compensation Commission had a substantial basis for denying benefits to a claimant on the basis that he failed to prove that he suffered a compensable thoracic spine injury as a result of a work-related fall. The decision turned largely on the claimant's credibility, his withholding of information from the medical doctors, and the weight and credibility the Commission attached to the doctors' opinions. *Watson v. Highland Pellets,*

LLC, 2022 Ark. App. 132, 643 S.W.3d 267 (2022).

Workers' Compensation Commission did not err in finding that the claimant was not entitled to permanent partial-disability benefits because the Commission noted that the only medical evidence offered was the report from a doctor that the claimant had no impairment from his compensable injuries; and there was no evidence of objective findings to support the existence of permanent impairment. *Allen v. Staffmark Invs.,* 2022 Ark. App. 252, 646 S.W.3d 646 (2022).

11-9-105. Remedies exclusive — Exception. [Effective from March 11, 2020, until May 1, 2023.]

RESEARCH REFERENCES

ALR. Workers' Compensation Act Immunity from Tort Liability of General Contractor or Owner Through Application

of Statutory Employment Doctrine. 64 A.L.R.7th Art. 2 (2021).

CASE NOTES

Employer.

Workers' Compensation Commission did not err in finding that the wrongful death action was barred by the exclusive remedy statute under *Myers v. Yamato Kogyo Co.,* 2020 Ark. 135, 597 S.W.3d 613,

because the defendant limited liability partnership was the sole owner of the decedent's direct employer. *Mason v. Wilson Bros. Lumber Co.,* 2022 Ark. App. 225, 645 S.W.3d 358 (2022).

11-9-105. Remedies exclusive — Exception. [Effective May 1, 2023.]

RESEARCH REFERENCES

ALR. Workers' Compensation Act Immunity from Tort Liability of General Contractor or Owner Through Application

of Statutory Employment Doctrine. 64 A.L.R.7th Art. 2 (2021).

CASE NOTES

Employer.

Workers' Compensation Commission did not err in finding that the wrongful death action was barred by the exclusive remedy statute under *Myers v. Yamato Kogyo Co.,* 2020 Ark. 135, 597 S.W.3d 613,

because the defendant limited liability partnership was the sole owner of the decedent's direct employer. *Mason v. Wilson Bros. Lumber Co.,* 2022 Ark. App. 225, 645 S.W.3d 358 (2022).

11-9-110. Compensation nonassignable, etc., and payable to dependents only — Child support obligations excepted — Definition.

RESEARCH REFERENCES

ALR. Workers' Compensation Benefits for Non-Related "Other Dependent" Parties Other Than Children. 66 A.L.R.7th Art. 3 (2021).

11-9-111. Compensation payable to certain alien dependents.

RESEARCH REFERENCES

ALR. Workers' Compensation Benefits for Non-Related "Other Dependent" Parties Other Than Children. 66 A.L.R.7th Art. 3 (2021).

11-9-113. Mental injury or illness.

CASE NOTES

Evidence. Reasonable minds could agree with the Workers' Compensation Commission's decision that the employee's depression and PTSD were not causally related to his compensable injuries, and therefore the denial of compensation for mental injury was affirmed. *Bronco Indus. Servs., LLC v. Brooks*, 2021 Ark. App. 279, 625 S.W.3d 753 (2021).

SUBCHAPTER 4 — EMPLOYER LIABILITY — INSURANCE

11-9-402. Liability of prime contractors and subcontractors — Sole proprietorships or partnerships.

RESEARCH REFERENCES

ALR. Workers' Compensation Act Immunity from Tort Liability of General Contractor or Owner Through Application of Statutory Employment Doctrine. 64 A.L.R.7th Art. 2 (2021).

11-9-410. Third-party liability.

RESEARCH REFERENCES

ALR. Workers' Compensation Act Immunity from Tort Liability of General Contractor or Owner Through Application of Statutory Employment Doctrine. 64 A.L.R.7th Art. 2 (2021).

SUBCHAPTER 5 — ACCIDENTAL INJURY OR DEATH**11-9-508. Medical services and supplies — Liability of employer — Definition.****CASE NOTES****ANALYSIS**

Additional Benefits.

Additional Benefits Denied.

Reasonably Necessary Treatment.

Additional Benefits.

Substantial evidence supported the Workers' Compensation Commission's decision to award the claimant additional medical treatment as the claimant's treating physician indicated that the claimant might need surgery and that the need should be assessed at a follow-up visit, and while a consulting physician did not see an acute injury, he deferred to prior treating neurosurgeons. *North Hills Surgery Ctr. v. Otis*, 2021 Ark. App. 468, 638 S.W.3d 323 (2021).

Workers' Compensation Commission's decision that claimant was entitled to additional medical treatment in the form of an evaluation for pain management treatment was supported by substantial evidence because claimant could be entitled to additional medical treatment after her healing period if it was geared toward management of the injury, and since the parties stipulated to a compensable injury, claimant did not have to offer objective medical evidence to prove entitlement. *Dodson v. Valley Behavioral Health Sys.*, 2022 Ark. App. 128 (2022).

Additional Benefits Denied.

Based on the medical evidence presented, there was a substantial basis for the Workers' Compensation Commission's finding that the employee failed in his burden of proving that any further medical treatment was reasonably necessary in connection with his compensable shoulder injury. *Carrick v. Baptist Health*, 2022 Ark. App. 134, 643 S.W.3d 466 (2022).

Reasonably Necessary Treatment.

There was substantial evidence to support the Commission's finding that the employee's medical treatment was reasonable and necessary because the doctor ordered a bone scan, the results of which he stated contained objective findings to support his diagnosis, and there was no need for the diagnosis to be "confirmed" by another doctor. *Bronco Indus. Servs., LLC v. Brooks*, 2021 Ark. App. 279, 625 S.W.3d 753 (2021).

Award by Workers' Compensation Commission of additional medical treatment in the form of a Superion procedure to an injured employee who sustained a compensable work-related back injury was appropriate because the employee testified that he still had the same type of pain in the same location as after the injury and a treating physician expressed the medical opinion in a letter of explanation that the procedure was reasonable and necessary and bore a causal connection to the injury. *S. Tire Mart v. Perez*, 2022 Ark. App. 179, 644 S.W.3d 439 (2022).

Substantial evidence supported the Worker's Compensation Commission's decision to deny a claimant back surgery for an admittedly compensable back injury where only one doctor thought surgery was a recommended treatment option, and three doctors who had examined the claimant, took his history, and reviewed the MRIs did not think surgery was warranted. *Sosa v. Kawneer Co.*, 2022 Ark. App. 195, 645 S.W.3d 26 (2022).

Workers' Compensation Commission did not err in denying the claimant's October 2019 emergency room visit as the claimant had failed to prove the treatment was reasonable and necessary, and a doctor advised the claimant that he would continue to have pain. *Allen v. Staffmark Invs.*, 2022 Ark. App. 252, 646 S.W.3d 646 (2022).

11-9-521. Compensation for disability — Scheduled permanent injuries.

CASE NOTES

Applicability.

Workers' Compensation Commission erred in concluding that a claimant's lymphedema was scheduled when the Commission relied on the testimony of claimant's wife as to when the swelling occurred, but the record and therapist testimony showed that claimant's cast was placed after the noted hip swelling.

Moreover, the affected region as evidenced by the medical records included swelling in the area above the claimant's knee, including his hip. The lymphedema affected his entire right leg and hip, which was not listed in this section, and therefore was unscheduled. *Corley v. Acme Brick*, 2022 Ark. App. 60, 641 S.W.3d 22 (2022).

11-9-522. Compensation for disability — Unscheduled permanent partial disability.

CASE NOTES

ANALYSIS

Unscheduled.

Wage Earning Loss.

Unscheduled.

Workers' Compensation Commission erred in concluding that a claimant's lymphedema was scheduled under § 11-9-521 when the Commission relied on the testimony of claimant's wife as to when the swelling occurred, but the record and therapist testimony showed that claimant's cast was placed after the noted hip swelling. Moreover, the affected region as evidenced by the medical records included swelling in the area above the claimant's knee, including his hip. The lymphedema affected his entire right leg and hip, which

was not listed in § 11-9-521, and therefore was unscheduled. *Corley v. Acme Brick*, 2022 Ark. App. 60, 641 S.W.3d 22 (2022).

Wage Earning Loss.

There was substantial evidence to support the Workers' Compensation Commission's decision that an employee sustained 10% wage-loss disability in excess of his 11% permanent anatomical impairment because it considered the relevant wage-loss factors and clearly found the employee's testimony credible in terms of his job searches and his motivation to return to work; the employer did not prove the employee had a bona fide offer of employment he was capable of performing. *Ace Fence Co. v. Andrews*, 2021 Ark. App. 450, 637 S.W.3d 287 (2021).

11-9-526. Compensation for disability — Refusal of employee to accept employment.

CASE NOTES

Applicability.

Worker's Compensation Commission did not err in denying the claimant temporary total-disability benefits when a treating doctor found him to be at maximum medical improvement as of August 5, 2019, and he was paid benefits until September 10, 2019; thus, his involuntary termination before that date was irrelevant.

The issue in this case was whether the heading period ended. The fact that *Superior Industries* may apply so that a claimant is not precluded from disability benefits by this section does not mean that a claimant is entitled to benefits beyond the duration of the disability. *Sosa v. Kawneer Co.*, 2022 Ark. App. 195, 645 S.W.3d 26 (2022).

11-9-527. Compensation for death.**CASE NOTES****ANALYSIS**

Beneficiaries.
—Dependents.

Beneficiaries.**—Dependents.**

Workers' compensation award to decedent's daughter was upheld. Even though defendants argued that the child was only partially dependent on decedent's earn-

ings, the decedent bought her gifts and necessities and contributed to her overall well-being and the child lived with decedent; the finding that there was some measure of actual support and a reasonable expectation of support was backed by substantial evidence. "Actual dependency" does not require a showing of total dependence. *Mason v. Wilson Bros. Lumber Co.*, 2022 Ark. App. 225, 645 S.W.3d 358 (2022).

**SUBCHAPTER 7 — PROCEEDINGS BEFORE WORKERS' COMPENSATION
COMMISSION**

11-9-702. Filing of claims.**CASE NOTES****ANALYSIS**

Statute of Limitations.
—Additional Compensation.
—Claim Not Barred.

Statute of Limitations.**—Additional Compensation.**

Workers' Compensation Commission incorrectly found that claim for additional permanent partial disability benefits was barred by the statute of limitations under subsection (b) of this section because the claim was filed within one year of the last payment of medical treatment benefits. There was no requirement that the benefits that had been paid be the same type of benefits being sought. *Cosner v. C&J Forms & Labels Co.*, 2021 Ark. App. 453 (2021).

Under a plain reading of subdivision (b)(1) of this section, the statute of limitations on a request for additional workers' compensation benefits commences when the last payment, whether for disability or medical benefits, was made. Because the last payment of benefits to the employee was a check for disability benefits issued on January 17, 2019, his February 25, 2019 claim for additional medical benefits was timely. *Wynne v. Liberty Trailer*, 2022 Ark. 65, 641 S.W.3d 621 (2022).

Workers' Compensation Commission did not err in finding that more than one year had passed between the provision of medical treatment in 2016 and 2017 to the claimant, which meant that the one-year statute of limitations barred any claim for additional medical benefits, because it was the furnishing of medical services, not the payment for the services, that constituted "payment of compensation" in subdivision (b)(1) of this section under case law precedent. *Slaughter v. City of Fayetteville*, 2022 Ark. App. 139, 643 S.W.3d 809 (2022).

Gratuitous payment of benefits does not revive the statute of limitations on a workers' compensation claim that has already run; thus, the Commission did not err in rejecting the argument that the employer's providing subsequent medical services revived the otherwise time-barred claim. *Slaughter v. City of Fayetteville*, 2022 Ark. App. 139, 643 S.W.3d 809 (2022).

—Claim Not Barred.

Claimant's awareness of his carpal tunnel injury began when he was finally informed that his symptoms were not related to his previous neck injury and the degenerative disc disease; under the facts, his diagnosis and awareness coincided, and substantial evidence supported the

Commission’s decision that the claimant’s awareness was delayed. His claim was not barred by the two-year statute of limita-

tions. *Cooper Tire & Rubber Co. v. Hill*, 2022 Ark. App. 151, 643 S.W.3d 826 (2022).

11-9-704. Proceedings on claims.

CASE NOTES

ANALYSIS

Evidence.
—Findings of Impairment.
“Physical Impairment”.

Evidence.
Workers’ Compensation Commission properly found that a claimant sustained a compensable injury to her back. The Commission determined that the medical evidence was supported by objective findings, including a diagnosis of lumbar disc herniation, and it was up to the Commission to resolve conflicting medical opinions and evidence. *Sheridan Sch. Dist. v. Wise*, 2021 Ark. App. 459, 637 S.W.3d 280 (2021).

—**Findings of Impairment.**
Both the doctor and the report by the Functional Testing Center assigned no permanent impairment rating to the em-

ployee, and it was within the Workers’ Compensation Commission’s province to credit those opinions; substantial evidence supported the Commission’s finding that the employee failed to prove objective findings to support a permanent impairment. *Carrick v. Baptist Health*, 2022 Ark. App. 134, 643 S.W.3d 466 (2022).

“Physical Impairment”.
Workers’ Compensation Commission did not err in finding that the claimant was not entitled to permanent partial-disability benefits because the Commission noted that the only medical evidence offered was the report from a doctor that the claimant had no impairment from his compensable injuries; and there was no evidence of objective findings to support the existence of permanent impairment. *Allen v. Staffmark Invs.*, 2022 Ark. App. 252, 646 S.W.3d 646 (2022).

CHAPTER 10
DIVISION OF WORKFORCE SERVICES LAW

SUBCHAPTER.
3. ADMINISTRATION AND ENFORCEMENT.

SUBCHAPTER 1 — GENERAL PROVISIONS

11-10-106. Penalties.

CASE NOTES

Cited: *Ark. DOC v. Legal Aid of Ark.*, 2022 Ark. 130, 645 S.W.3d 9 (2022).

SUBCHAPTER 3 — ADMINISTRATION AND ENFORCEMENT

SECTION.
11-10-311. Employment stabilization.
11-10-312. Federal-state cooperation.

Effective Dates. Identical Acts 2021 (1st Ex. Sess.), Nos. 1 and 2, § 4, provided: "Retroactivity. This act is retroactive to May 19, 2021."

Identical Acts 2021 (1st Ex. Sess.), Nos. 1 and 2, § 5: Aug. 6, 2021. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the coronavirus 2019 (COVID-19) pandemic negatively affected the economic health of the state in part because it led to higher unemployment rates; that the United States Government instituted extraordinary federal unemployment programs to assist states with their economic recovery, and Arkansas voluntarily participated in those federally funded programs; that Arkansas's economy is recovering, and the state's unemployment rate has decreased; that employers in this state have tens of thousands of job vacancies that need to be filled; that the continuation of these ex-

traordinary federal unemployment programs could interfere with the ability of employers to fill job vacancies and complete the state's economic recovery; and that this act is immediately necessary because the state needs to return its unemployment compensation system to normal functioning to safeguard the progress the state has made and to complete the state's economic recovery, which is in the best interest of all Arkansans. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

11-10-301. Division of Workforce Services — Creation — Director.

CASE NOTES

Freedom of Information Act.

Arkansas Department of Commerce, Division of Workforce Services (DWS), was not a law enforcement agency to which the exemption in the Freedom of Information Act, § 25-19-105(b)(6), for undisclosed investigations of suspected criminal activity applied, and thus, it was not entitled to redact its public records;

none of the statutes DWS referenced authorized it to conduct criminal investigations but rather, they allowed it to conduct administrative investigations, initiate civil collection actions, and refer matters to law enforcement agencies. Ark. DOC v. Legal Aid of Ark., 2022 Ark. 130, 645 S.W.3d 9 (2022).

11-10-306. Director — Duties and powers generally.

CASE NOTES

Freedom of Information Act.

Arkansas Department of Commerce, Division of Workforce Services (DWS), was not a law enforcement agency to which the exemption in the Freedom of Information Act, § 25-19-105(b)(6), for undisclosed investigations of suspected criminal activity applied, and thus, it was not entitled to redact its public records;

none of the statutes DWS referenced authorized it to conduct criminal investigations but rather, they allowed it to conduct administrative investigations, initiate civil collection actions, and refer matters to law enforcement agencies. Ark. DOC v. Legal Aid of Ark., 2022 Ark. 130, 645 S.W.3d 9 (2022).

11-10-311. Employment stabilization.

(a) The Director of the Division of Workforce Services shall take all appropriate steps to reduce and prevent unemployment, to encourage and assist in the adoption of practical methods of vocational training, retraining, and vocational guidance, to investigate, recommend, advise, and assist in the establishment and operation by municipalities, counties, planning districts, school districts, and the state of programs for public works to be used in times and places of economic downturn and high unemployment for the purpose of promoting the employment of unemployed and underemployed workers throughout the state, and to these ends, to carry on research and such investigations as he or she shall deem necessary and to publish the results thereof.

(b) Subsection (a) of this section shall be construed as taking precedence over other provisions of this chapter.

History. Acts 1941, No. 391, § 11; 1975, No. 609, § 10; A.S.A. 1947, § 81-1114; Acts 1991, No. 100, § 15; 2017, No. 540, § 10; 2019, No. 910, § 198; 2021 (1st Ex. Sess.), No. 1, § 2; 2021 (1st Ex. Sess.), No. 2, § 2.

Amendments. The 2017 amendment deleted “with the advice and aid of the State Employment Security Advisory Council” following “Workforce Services”.

The 2019 amendment substituted “Director of the Division of Workforce Services” for “Director of the Department of Workforce Services”.

The 2021 (1st Ex. Sess.) amendment by identical acts Nos. 1 and 2 added (b).

Effective Dates. Identical Acts 2021 (1st Ex. Sess.), Nos. 1 and 2, § 4, provided: “Retroactivity. This act is retroactive to May 19, 2021.”

11-10-312. Federal-state cooperation.

(a) In the administration of this chapter, the Director of the Division of Workforce Services shall cooperate with the United States Department of Labor to the fullest extent consistent with this chapter and may take such action, through the adoption of such appropriate rules, administrative methods, and standards as may be necessary to secure to this state and its citizens all advantages available under the Social Security Act that relate to unemployment compensation, the Federal Unemployment Tax Act, the Wagner-Peyser Act, and the Federal-State Extended Unemployment Compensation Act of 1970.

(b) In the administration of §§ 11-10-534 — 11-10-543, which are enacted to conform with the requirements of the Federal-State Extended Unemployment Compensation Act of 1970, the director may take such action as may be necessary to:

(1) Ensure that the provisions are so interpreted and applied as to meet the requirements of the federal act referred to in this subsection as interpreted by the United States Department of Labor; and

(2) To the extent benefits do not conflict with § 11-10-311 and to the extent the director in his or her discretion deems it necessary, secure to this state the full reimbursement of the federal share of extended benefits paid under this chapter that are reimbursable under the federal act referred to in this subsection.

(c) This section does not:

(1) Require the director to participate in, nor preclude the director from ceasing to participate in, any voluntary, optional, special, or emergency program offered by the United States Government, including without limitation programs offered under the Social Security Act, the Federal Unemployment Tax Act, the Wagner-Peyser Act, the Federal-State Extended Unemployment Compensation Act of 1970, the Coronavirus Aid, Relief, and Economic Security Act, or any other federal program enacted to address exceptional unemployment conditions; or

(2) Conflict with § 11-10-105 or § 11-10-311.

History. Acts 1941, No. 391, § 11; 1971, No. 35, § 17; 1985, No. 8, § 16; 1985, No. 9, § 16; A.S.A. 1947, § 81-1114; Acts 2019, No. 315, § 812; 2019, No. 382, § 3; 2019, No. 910, § 199; 2021 (1st Ex. Sess.), No. 1, § 3; 2021 (1st Ex. Sess.), No. 2, § 3.

A.C.R.C. Notes. Identical Acts 2021 (1st Ex. Sess.), Nos. 1 and 2, § 1, provided: "Termination of participation — Legislative intent. It is the intent of the General Assembly to:

"(1) Concur with and approve the Governor's decision stated in his letter dated May 7, 2021, to the Director of the Division of Workforce Services terminating the State of Arkansas's participation in:

"(A) The Federal Pandemic Unemployment Compensation program, 15 U.S.C. § 9023;

"(B) The Pandemic Unemployment Assistance program, 15 U.S.C. § 9021;

"(C) The Pandemic Emergency Unemployment Compensation program, 15 U.S.C. § 9025;

"(D) The Mixed Earner Unemployment Compensation program, 15 U.S.C. § 9023;

"(E) The Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations program, 42 U.S.C. § 1103; and

"(F) The Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week program, 15 U.S.C. § 9024; and

"(2) Concur with and approve the notice of intent to terminate the Agreement Implementing the Relief for Workers Affected by Coronavirus Act between the United States Department of Labor and the State of Arkansas transmitted by the Director of the Division of Workforce Services to the United States Department of Labor on May 19, 2021, with such termination to be effective as provided for therein."

Amendments. The 2019 amendment by No. 315 deleted "regulations" following "rules" in (a).

The 2019 amendment by No. 382 deleted "the Job Training Partnership Act" following "the Wagner-Peyser Act" in (a).

The 2019 amendment by No. 910 substituted "Director of the Division of Workforce Services" for "Director of the Department of Workforce Services" in (a).

The 2021 (1st Ex. Sess.) amendment by identical acts Nos. 1 and 2, in (a), deleted "the provisions of" following "consistent with", substituted "may" for "shall", and deleted "the provisions of" preceding "the Social Security Act"; in the introductory language of (b), deleted "the provisions of" following "administration of" and substituted "may" for "shall"; added "To the extent benefits do not conflict with § 11-10-311 and to the extent the director in his or her discretion deems it necessary" to (b)(2); and added (c).

Effective Dates. Identical Acts 2021 (1st Ex. Sess.), Nos. 1 and 2, § 4, provided: "Retroactivity. This act is retroactive to May 19, 2021."

CASE NOTES

Termination.

In a case involving the State's termination of participation in certain federal pandemic-unemployment programs, the

grounds on which the trial court entered its preliminary injunction were rendered moot by the amendment of this section in 2021; because the preliminary injunction

was still in place, however, reversal and remand was warranted. *Hutchinson v. Armstrong*, 2022 Ark. 59, 640 S.W.3d 395 (2022).

11-10-319. Representation in court.

CASE NOTES

Freedom of Information Act.

Arkansas Department of Commerce, Division of Workforce Services (DWS), was not a law enforcement agency to which the exemption in the Freedom of Information Act, § 25-19-105(b)(6), for undisclosed investigations of suspected criminal activity applied, and thus, it was not entitled to redact its public records;

none of the statutes DWS referenced authorized it to conduct criminal investigations but rather, they allowed it to conduct administrative investigations, initiate civil collection actions, and refer matters to law enforcement agencies. *Ark. DOC v. Legal Aid of Ark.*, 2022 Ark. 130, 645 S.W.3d 9 (2022).

SUBCHAPTER 5 — BENEFITS GENERALLY

11-10-507. Eligibility — Conditions — Definitions.

CASE NOTES

Eligibility Generally.

Board of Review erred in denying claimant's request for unemployment benefits for certain weeks as untimely where he had provided proof of his Texas wages within a day of being asked, the Division of Workforce Services was solely respon-

sible for the misplacement of those records, and claimant had done everything he could to file claims on a weekly basis and he kept in contact with the agency by phone, in person, by mail, and online. *Bushnell v. Dir.*, 2022 Ark. App. 194, 645 S.W.3d 24 (2022).

11-10-509. Eligibility — Employees of educational institutions.

CASE NOTES

ANALYSIS

Benefits During Summer Break.
Between-Terms Time Period.
Pandemic Unemployment Assistance.
Reasonable Assurance.

Benefits During Summer Break.

Teacher was still employed by the district as a substitute teacher on an as-needed basis and remained so into the 2020-2021 school year; thus, the Board of Review did not err in concluding that she had reasonable assurances of continued employment and she was not entitled to unemployment benefits during summer break. *Johnson v. Dir., Dep't of Workforce Servs.*, 2022 Ark. App. 216, 645 S.W.3d 352 (2022).

Between-Terms Time Period.

Board of Review erred in denying a teacher's claim for unemployment benefits because she was not hired as a teacher who would regularly be on leave from the beginning of summer and rehired by that school or another school in the fall, as contemplated by subsection (a) of this section, and the interruption of her regular, year-round employment was not because of a natural break in the academic cycle but was rather because of the circumstances of the COVID-19 pandemic. *Tucker v. Dir., Div. of Workforce Servs.*, 2021 Ark. App. 293, 626 S.W.3d 132 (2021).

Pandemic Unemployment Assistance.

Denial of Pandemic Unemployment Assistance was improper because claimant's

separation from work was definitely caused by the outbreak of the COVID-19 virus and it was erroneous for the Board of Review to deny her claim entirely on the basis that she was disqualified from regular unemployment benefits under this section. *Soler v. Dir., Dep't of Workforce Servs.*, 2022 Ark. App. 37 (2022).

Reasonable Assurance.

Claimant's unemployment benefits claim was properly denied as she had reasonable assurance of employment for the next school year because she was a substitute teacher for the school district

and provided services to the district on an as-needed basis; in that capacity, she had remained on that list for the 2020-2021 school year; she did not dispute her placement on the list was sufficient for continued employment as a substitute teacher; her contract with the district amounted to an implied contract for employment as a substitute teacher when her services were needed by the district; and COVID-19 did not change the nature of her employment relationship with the district. *Green v. Dir., Ark. Dep't of Workforce Servs.*, 2022 Ark. App. 247, 646 S.W.3d 642 (2022).

11-10-513. Disqualification — Voluntarily leaving work — Definitions.

CASE NOTES

Good Cause Not Shown.

Substantial evidence supported the decision that the employee left her last work without good cause and without preserving her job rights because she did not contact the employer prior to the expira-

tion of her FMLA leave, did not accept the additional leave, and did not ask for any further accommodations. *Hourston v. Dir., Dep't of Workforce Servs.*, 2022 Ark. App. 141, 643 S.W.3d 476 (2022).

11-10-514. Disqualification — Discharge for misconduct.

CASE NOTES

ANALYSIS

Misconduct.

- Dishonesty.
- Misconduct Found.
- Not Shown.
- Tardiness.

Misconduct.

—Dishonesty.

Board of Review erred in denying an unemployment claim on the basis that the employee was discharged for misconduct in connection with the work on account of dishonesty because there was no substantial evidence of misconduct or dishonesty; the employee's testimony was the only evidence before the Board, and the employer did not appear at the hearing, did not present any evidence to contradict the employee's testimony, and did not contest her entitlement to unemployment benefits. *Burgos v. Dir., Div. of Workforce Servs.*, 2021 Ark. App. 270 (2021).

—Misconduct Found.

Evidence supported the Board of Review's decision to deny the employee unemployment benefits under subsection (b)(1) of this section because there was evidence that the employee was terminated for misconduct because he harassed another employee by using a racial slur. *Mitchell v. Dir., Div. of Workforce Servs.*, 2022 Ark. App. 289 (2022).

—Not Shown.

Board of Review's finding that misconduct precluded the corporate doctor from collecting unemployment benefits was not supported by substantial evidence, as the doctor's undisputed testimony was that, although he was required to maintain his medical license, the employer informed him in years past when he needed to renew his license, the employer did not inform him of his current renewal date until after the date had passed, and when the employer informed him, he immediately renewed his license retroactively so

there was no gap in his licensure. Schock v. Dir., Div. of Workforce Servs., 2022 Ark. App. 264, 646 S.W.3d 251 (2022).

—Tardiness.

Board of Review did not err in denying the claimant's unemployment claim on the basis that he was discharged from work for misconduct connected to his work as he received warnings about his excessive tardiness, and was eventually given a

written warning that he would be terminated if he did not correct his behavior, which he signed; he continued to report to work late for various reasons, and he was discharged from his employment on October 23, 2020; and the employer reported that the claimant was either tardy or absent over 30 times during his eight months of employment. Gieringer v. Dir. of Ark. Empl. Servs. Div., 2022 Ark. App. 280, 646 S.W.3d 692 (2022).

11-10-519. Disqualification — Penalty for false statement or misrepresentation.

CASE NOTES

Evidence.

Board of Review erred in finding that an employee was disqualified from unemployment benefits pursuant to the terms of and for the duration provided in subdivision (a)(1)(A) of this section because there was no substantial evidence to support its finding that the employee willfully

made a false statement or misrepresentation of a material fact on her application for unemployment benefits; the events surrounding the employee's separation from her work were not altogether clear. McPherson v. Dir., Div. of Workforce Servs., 2022 Ark. App. 36, 640 S.W.3d 653 (2022).

11-10-524. Claims — Administrative appeal — Filing and hearing.

CASE NOTES

Timeliness of Appeal.

Board of Review erred in ruling that an applicant's appeal was untimely, as the applicant had an insufficient wage history to be eligible for a state benefit and thus it was a mistake to tell her to apply for state benefits before she could pursue a Pandemic Unemployment Assistance benefit; because the applicant was ineligible for regular state benefits, she had met at least one of the requirements for being a "covered individual" under the Coronavirus Aid, Relief, and Economic Security Act, 15 U.S.C. § 9021. Sharum v. Dir., Ark. Dep't of Commerce, Div. of Workforce Servs., 2022 Ark. App. 96, 642 S.W.3d 615 (2022), overruled in part, Wright v. Dir., Ark. Dep't of Commerce, Div. of Workforce Servs., 2022 Ark. App. 222, 646 S.W.3d 150 (2022).

Board of Review erred in ruling that an applicant's appeal was untimely, because in the absence of a written directive to the contrary or testimony to the contrary, it was reasonable for the applicant to rely on

legal and instructional directives the Division of Workforce Services' personnel gave her; the 20-day period to appeal a Pandemic Unemployment Assistance (PUA) denial did not give claimants enough time to have state claims adjudicated before the time to appeal the PUA denial had run. Sharum v. Dir., Ark. Dep't of Commerce, Div. of Workforce Servs., 2022 Ark. App. 96, 642 S.W.3d 615 (2022), overruled in part, Wright v. Dir., Ark. Dep't of Commerce, Div. of Workforce Servs., 2022 Ark. App. 222, 646 S.W.3d 150 (2022).

Claimant's late filing of her notice of appeal of her federal Pandemic Unemployment Assistance (PUA) claim to the state appeal tribunal was not due to circumstances beyond her control because there was nothing ambiguous in the Appeal Rights section in the PUA determination, and as she was informed unambiguously in writing of her appeal rights in the PUA determination, and as she chose not to timely appeal it, the claimant's un-

timely appeal was not due to circumstances beyond her control. *Wright v. Dir., Ark. Dep't of Commerce, Div. of Workforce Servs.*, 2022 Ark. App. 222, 646 S.W.3d 150 (2022).

Untimely filing of the appeal from the determination of nonfraud overpayment of unemployment benefits was not due to circumstances beyond the claimant's control because her self-serving testimony that she timely sent a letter to the Appeal Tribunal was not supported by the record. While she did have proof of email contact with the Agency, the communication occurred roughly a week after the time for appeal had expired. *Erives v. Dir., Div. of Workforce Servs.*, 2022 Ark. App. 226 (2022).

Claimant's appeal of the December 15 determination of the Division of Workforce Services (DWS) was properly dismissed as untimely because the December 15 determination specifically informed the claimant that she had 20 days to appeal the decision denying her benefits; DWS mailed the December 15 determination separately from the December 22 determination; the claimant conceded that she did not file the appeal within 20 days of December 15; and the claimant's confusion concerning the two determinations did not constitute circumstances beyond her control. *Small v. Dir., Div. of Workforce Servs.*, 2022 Ark. App. 245 (2022).

TITLE 12

LAW ENFORCEMENT, EMERGENCY MANAGEMENT, AND MILITARY AFFAIRS

SUBTITLE 2. LAW ENFORCEMENT AGENCIES AND PROGRAMS

CHAPTER.

8. DIVISION OF ARKANSAS STATE POLICE.

SUBTITLE 3. CORRECTIONAL FACILITIES AND PROGRAMS

CHAPTER.

27. DIVISION OF CORRECTION — DIVISION OF COMMUNITY CORRECTION. 28. STATE CORRECTIONAL FACILITIES.

SUBTITLE 2. LAW ENFORCEMENT AGENCIES AND PROGRAMS

CHAPTER 8

DIVISION OF ARKANSAS STATE POLICE

SUBCHAPTER.

2. POLICE OFFICERS.

SUBCHAPTER 2 — POLICE OFFICERS

SECTION.

12-8-216. [Repealed.]

12-8-216. [Repealed.]

Publisher’s Notes. This section, concerning a salary administration grid, was repealed by Acts 2022, No. 223, § 48,

effective July 1, 2022. The section was derived from Acts 2019, No. 1007, § 20; 2021, No. 398, § 2.

CHAPTER 12

CRIME REPORTING AND INVESTIGATIONS

SUBCHAPTER 3 — STATE CRIME LABORATORY

12-12-312. Records confidential and privileged — Exception — Release.

CASE NOTES

Right to Access.

It was proper to find that an inmate’s petition for an order directing counsel for the State Crime Laboratory to forward copies of the victim’s autopsy photographs directly to him failed to state a claim for mandamus relief because he did not show a right to possession of the photographs or

that counsel failed to perform a duty under this section; counsel forwarded a copy of the inmate’s entire file to the Department of Corrections, and thus Department of Corrections officials were withholding the photos. *McArty v. McLaurin*, 2022 Ark. 104, 643 S.W.3d 777 (2022).

SUBCHAPTER 9 — SEX OFFENDER REGISTRATION ACT OF 1997

RESEARCH REFERENCES

ALR. Registration Under Sex Offender Registration Statute When Underlying

Conduct Was Voyeurism. 63 A.L.R.7th Art. 5 (2021).

12-12-903. Definitions.

CASE NOTES

ANALYSIS

Predatory.
Sex Offense.

Predatory.

Evidence supported the community-notification Level 3 assessment for a registered sex offender when the registrant moved to Arkansas; the victim was a 15-year-old male to whom the registrant had been a mentor and caregiver following grooming efforts, the registrant’s probation had been revoked for having unsupervised contact with another 15-year-old

male, and the registrant had received numerous prison disciplinaries for not following rules or attempting to circumvent them. *Hartman v. State Sex Offender Assessment Comm.*, 2021 Ark. App. 364 (2021).

Sex Offense.

Circuit court erred by not requiring defendant to register as a sex offender in its judgment of acquittal because he was not the parent of the minor victims; thus, his acquittal by reason of mental disease or defect of two counts each of kidnapping and first-degree false imprisonment of mi-

nors who were not his children required him to register as a sex offender. *State v. Scott*, 2022 Ark. 8, 636 S.W.3d 768 (2022).

12-12-904. Failure to comply with registration and reporting requirements — Refusal to cooperate with assessment process.

RESEARCH REFERENCES

ALR. Name Change Under State Sex Offender Registration Laws. 67 A.L.R.7th Art. 4 (2022).

CASE NOTES

Failure to Register or Report Found.

Defendant failed to comply with § 12-12-908 when he failed to report a social media application, because defendant failed to register his social media account information at the time of registration and, subsequently, to verify the information every six months; any offender re-

quired to register as a sex offender, regardless of whether the offender is subject to lifetime registration or not, must register the information listed in § 12-12-908 to the appropriate agency. *Hall v. State*, 2022 Ark. App. 232, 646 S.W.3d 204 (2022).

12-12-905. Applicability.

RESEARCH REFERENCES

ALR. Registration Under Sex Offender Registration Statute When Underlying

Conduct Was Voyeurism. 63 A.L.R.7th Art. 5 (2021).

CASE NOTES

In General.

Circuit court erred by not requiring defendant to register as a sex offender in its judgment of acquittal because he was not the parent of the minor victims; thus, his acquittal by reason of mental disease

or defect of two counts each of kidnapping and first-degree false imprisonment of minors who were not his children required him to register as a sex offender. *State v. Scott*, 2022 Ark. 8, 636 S.W.3d 768 (2022).

12-12-906. Duty to register or verify registration generally — Review of requirements with offenders.

RESEARCH REFERENCES

ALR. Registration Under Sex Offender Registration Statute When Underlying Conduct Was Voyeurism. 63 A.L.R.7th Art. 5 (2021).

Name Change Under State Sex Offender Registration Laws. 67 A.L.R.7th Art. 4 (2022).

CASE NOTES

Requirement to Register.

At the time of the kidnapping and first-degree false imprisonment offenses, as to which defendant was acquitted by reason of mental disease or defect, the victims were four and 11 years old, while defendant was 31 years old; thus, defendant

was not exempted from registering as a sex offender because he was more than three years older than the victims. *State v. Scott*, 2022 Ark. 8, 636 S.W.3d 768 (2022).

Cited: *Hall v. State*, 2022 Ark. App. 232, 646 S.W.3d 204 (2022).

12-12-908. Registration format — Requirements.

CASE NOTES

Social Media Account Information.

Defendant failed to comply with this section when he failed to report a social media application, because defendant failed to register his social media account information at the time of registration and, subsequently, to verify the informa-

tion every six months; any offender required to register as a sex offender, regardless of whether the offender is subject to lifetime registration or not, must register the information listed in this section to the appropriate agency. *Hall v. State*, 2022 Ark. App. 232, 646 S.W.3d 204 (2022).

12-12-909. Verification form — Change of address.

CASE NOTES

Social Media Account Information.

Defendant failed to comply with § 12-12-908 when he failed to report a social media application, because defendant failed to register his social media account information at the time of registration and, subsequently, to verify the information every six months; any offender re-

quired to register as a sex offender, regardless of whether the offender is subject to lifetime registration or not, must register the information listed in § 12-12-908 to the appropriate agency. *Hall v. State*, 2022 Ark. App. 232, 646 S.W.3d 204 (2022).

12-12-913. Disclosure.

CASE NOTES

Sufficiency of Evidence.

Evidence supported the community-notification Level 3 assessment for a registered sex offender when the registrant moved to Arkansas; the victim was a 15-year-old male to whom the registrant had been a mentor and caregiver following grooming efforts, the registrant's proba-

tion had been revoked for having unsupervised contact with another 15-year-old male, and the registrant had received numerous prison disciplinarys for not following rules or attempting to circumvent them. *Hartman v. State Sex Offender Assessment Comm.*, 2021 Ark. App. 364 (2021).

**12-12-917. Evaluation protocol — Sexually dangerous persons
— Juveniles adjudicated delinquent — Examiners.**

CASE NOTES

Substantial Evidence.

Evidence supported the community-notification Level 3 assessment for a registered sex offender when the registrant moved to Arkansas; the victim was a 15-year-old male to whom the registrant had been a mentor and caregiver following grooming efforts, the registrant's proba-

tion had been revoked for having unsupervised contact with another 15-year-old male, and the registrant had received numerous prison disciplinarys for not following rules or attempting to circumvent them. *Hartman v. State Sex Offender Assessment Comm.*, 2021 Ark. App. 364 (2021).

**SUBCHAPTER 17 — ADULT AND LONG-TERM CARE FACILITY RESIDENT
MALTREATMENT ACT**

12-12-1703. Definitions.

CASE NOTES

Abuse.

Sufficient evidence supported the finding that the technician committed adult maltreatment where her version of the

incident was unreliable in light of the video footage. *Lewis v. Ark. Dep't of Human Servs.*, 2021 Ark. App. 317 (2021).

**CHAPTER 18
CHILD MALTREATMENT ACT**

SUBCHAPTER 1 — GENERAL PROVISIONS

12-18-108. Maintenance of forensic samples from abortions performed on a child.

CASE NOTES

Constitutionality.

Defendants were preliminarily enjoined from enforcing the provisions of Acts 2017, No. 1018, which amended subsection (a)(1) of this section, referred to in this federal case as the "Local Disclosure Mandate", because plaintiffs, a physician and an abortion clinic, were likely to succeed in demonstrating that the Mandate

served no valid state purpose as applied to those females ages 14 to 16 who become pregnant through consensual sexual intercourse with, for example, a teenager of the same age. *Hopkins v. Jegley*, 510 F. Supp. 3d 638 (E.D. Ark. 2021), dismissed without prejudice, 2022 U.S. Dist. LEXIS 124137 (E.D. Ark., July 13, 2022).

SUBTITLE 3. CORRECTIONAL FACILITIES AND PROGRAMS

CHAPTER 27

DIVISION OF CORRECTION — DIVISION OF COMMUNITY CORRECTION

SUBCHAPTER.

1. GENERAL PROVISIONS.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

12-27-150. Death benefit.

Effective Dates. Acts 2022, No. 203,
§ 50: July 1, 2022.

12-27-150. Death benefit.

(a) Subject to the approval of the Board of Corrections, the Secretary of the Department of Corrections may authorize the payment of a death benefit from special revenues held by the Department of Corrections or its various divisions to any department employee killed in the line of duty.

(b) The amount of the death benefit shall not exceed five thousand dollars (\$5,000).

(c) The secretary shall promulgate any rules necessary to implement this section.

(d) Funds distributed under this section are subject to audit by Arkansas Legislative Audit.

History. Acts 2022, No. 203, § 47.

Effective Dates. Acts 2022, No. 203,
§ 50: July 1, 2022.

CHAPTER 28

STATE CORRECTIONAL FACILITIES

SUBCHAPTER.

1. GENERAL PROVISIONS.

SUBCHAPTER 1 — GENERAL PROVISIONS**SECTION.**

12-28-108. Audit of firearms and ammunition.

Effective Dates. Acts 2022, No. 203,
§ 50: July 1, 2022.

12-28-108. Audit of firearms and ammunition.

(a) The Department of Corrections shall conduct an audit of the number and types of firearms and number and types of ammunition owned by and in the possession of the correctional facilities of the department annually and shall send a copy of the audit to the Secretary of the Department of Corrections for review.

(b) The audit under subsection (a) of this section is exempt from disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.

History. Acts 2022, No. 203, § 20.

Effective Dates. Acts 2022, No. 203,
§ 50: July 1, 2022.

CHAPTER 41**LOCAL CORRECTIONAL FACILITIES****SUBCHAPTER 1 — GENERAL PROVISIONS****12-41-101. Good time allowance.****CASE NOTES****In General.**

Because the statutory authority to administer meritorious good time to inmates committed to a county jail was with the county sheriff and not the circuit court,

the circuit court erred in ordering defendant to serve six months in jail straight — without the opportunity to earn meritorious good-time credit. *Black v. State*, 2022 Ark. App. 66 (2022).

SUBTITLE 4. MILITARY AFFAIRS**CHAPTER 64****MILITARY JUSTICE****SUBCHAPTER 8 — PUNITIVE ARTICLES**

12-64-819. Mutiny or sedition.

RESEARCH REFERENCES

ALR. Criminal Prosecution for Treason and Seditious Conspiracy — Federal Appellate Cases. 67 A.L.R. Fed. 3d Art. 13 (2022).

TITLE 14**LOCAL GOVERNMENT*****SUBTITLE 2. COUNTY GOVERNMENT*****CHAPTER 15****OFFICERS****SUBCHAPTER 4 — RECORDERS**

14-15-404. Effect of recording instruments affecting title to property.

CASE NOTES**Sufficiency of Notice.**

Circuit court did not err in dismissing with prejudice appellant's petition to quiet title as to land left to her by her father because the claim attacking the deed forged by appellant's mother was

barred by the statute of limitations since appellant had notice of the forged deed that was recorded but waited until well after the seven-year limitations period had run. *Griffith v. Juarez*, 2022 Ark. App. 206, 645 S.W.3d 339 (2022).

SUBTITLE 3. MUNICIPAL GOVERNMENT**CHAPTER 42****GOVERNMENT OF MUNICIPALITIES GENERALLY****SUBCHAPTER 1 — GENERAL PROVISIONS****14-42-107. Interest in offices or contracts prohibited.****CASE NOTES****Municipal Offices.**

Appointment of two commissioners to a municipal advertising and promotion commission under § 26-75-605(a)(2) despite their being sitting city council members was not barred under subdivision (a)(2) of this section because this section is a statute of general applicability and

§ 26-75-605(a)(2) is more specific to the issue in this appeal, and not only allows the appointment of city council members to an advertising and promotion commission, but requires them. *Johnson v. Wright*, 2022 Ark. 57, 640 S.W.3d 401 (2022).

CHAPTER 51**CIVIL SERVICE FOR POLICE AND FIRE DEPARTMENTS****SUBCHAPTER 3 — CIVIL SERVICE SYSTEM****14-51-301. Rules and regulations generally.****CASE NOTES****Change in Duty Status.**

Circuit court erred in finding a city and its police force in contempt for intentionally and willfully violating the order in the underlying officer misconduct case by placing the officer on “relieved of duty” status and refusing to return his service weapon, badge, and credentials. Even though the order provided that no additional punishment should be applied to the officer beyond the 30-day suspension

and reduction in salary, the examples in the order of additional penalties did not include change-of-duty status and failure to return identifications and service weapon, the officer was reinstated according to the court’s order, and changing the officer’s duty status did not constitute punishment under this section. *City of Little Rock v. Starks*, 2021 Ark. App. 362 (2021).

CHAPTER 56
MUNICIPAL BUILDING AND ZONING REGULATIONS —
PLANNING

SUBCHAPTER 4 — MUNICIPAL PLANNING

14-56-425. Appeals to circuit court.

CASE NOTES

Procedure.

Where the circuit court awarded \$6,792 to the city as reimbursement of demolition costs for appellant's condemned property, res judicata barred appellant's claims on appeal and the circuit court correctly applied res judicata in dismissing appellant's counterclaim, because the federal district court had found that appellant

had actual knowledge that his property had been condemned and that he failed to exhaust his remedies. By failing to appeal the city council's decision to the circuit court, appellant waived his right to complain about lack of notice of the condemnation hearing. *Newsome v. City of El Dorado*, 2022 Ark. App. 118, 642 S.W.3d 628 (2022).

SUBTITLE 5. IMPROVEMENT DISTRICTS GENERALLY

CHAPTER 94
MUNICIPAL PROPERTY OWNER'S IMPROVEMENT
DISTRICT LAW

14-94-110. Powers of districts generally.

CASE NOTES

Ownership of Improvements.

Summary judgment in favor of municipal property owners' improvement districts on the issue of ownership of a sewer system was inappropriate because the appellate court declined to conclude that the districts' statutory authorization under this section to operate, maintain, sell, and lease the improvements fairly implied that the districts owned the improve-

ments. Furthermore, while the districts contributed funds to the construction of the sewer improvements, there were other facts presented that a utility company installed and paid for improvements. *St. Joseph's Util. Operating Co., LLC v. Alexander Mun. Prop. Owners' Multipurpose Improvement Dist. No. 43*, 2022 Ark. App. 108, 642 S.W.3d 242 (2022).

14-94-128. Continued existence of district.

CASE NOTES

Cited: *St. Joseph's Util. Operating Co., LLC v. Alexander Mun. Prop. Owners' Multipurpose Improvement Dist. No. 43*,

2022 Ark. App. 108, 642 S.W.3d 242 (2022).

***SUBTITLE 7. WATER AND SOIL IMPROVEMENT
DISTRICTS***

CHAPTER 116

REGIONAL WATER DISTRIBUTION DISTRICT ACT

SUBCHAPTER 4 — OPERATION OF WATER DISTRICTS

14-116-402. District powers.

CASE NOTES

Water Services.

Where a regional water district challenged a city's longstanding provision of water to manufacturing plants, § 15-22-223 did not grant the regional water district an exclusive right to provide water within its geographical boundaries, and the city was not required to obtain approval from the Arkansas Natural Re-

sources Commission under § 15-22-503 to provide water services to the manufacturing plants because the city's provision of water to the plants did not constitute a water development project requiring prior approval from the commission. *St. Francis River Reg'l Water Dist. v. City of Marmaduke*, 2021 Ark. App. 305, 626 S.W.3d 168 (2021).

TITLE 15

**NATURAL RESOURCES AND ECONOMIC
DEVELOPMENT**

***SUBTITLE 1. DEVELOPMENT OF ECONOMIC AND
NATURAL RESOURCES GENERALLY***

CHAPTER 4

**DEVELOPMENT OF BUSINESS AND INDUSTRY
GENERALLY**

**SUBCHAPTER 12 — COUNTY AND REGIONAL INDUSTRIAL DEVELOPMENT
COMPANY ACT**

15-4-1215. Dividends and distributions.

A.C.R.C. Notes. Identical Acts 2021 (2nd Ex. Sess.), Nos. 7 and 12, § 5, provided: "Additional savings provisions.

"(a) It is the intent of this section to:

"(1) Provide for the transition and continuous operation and effect of additional provisions of Arkansas law related to limited liability companies and other business entities, whether or not specifically

referenced in Acts 2021, No. 1041, including without limitation provisions affecting the operation and taxation aspects of limited liability companies and other business entities:

"(A) Under the Uniform Protected Series Act, § 4-37-101 et seq.; and

"(B) Concerning the authorized and unauthorized use of business names; and

"(2) Ratify, validate, confirm, approve, and cure any actions under a codified or uncoded provision described in this section.

"(b) For the period of time after July 27, 2021, and before September 1, 2021, with respect to Acts 2021, No. 1041, §§ 2-25, 27-30, 32, 34, and 36, concerning various definitions and transition provisions from the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., to the Uniform Limited Liability Company Act, § 4-38-101 et seq., the stricken words 'Small Business Entity Tax Pass Through Act, § 4-38-101 et seq.', and all stricken provisions of the Small Business Entity Tax Pass Through Act, § 4-38-101 et seq., shall be treated as unstricken and operative and the underlined words 'Uniform Limited Liability Company Act, § 4-38-101 et seq.' and all underlined provisions of the Uniform Limited Liability Company Act, § 4-38-101 et seq. shall be treated as stricken and inoperative.

"(c) Any action or obligation of any public or private individual or entity that occurred under the following sections after July 27, 2021, and before September 1, 2021, that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, approved, and cured notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1:

"(1) Section 4-37-102(8), amended by Acts 2021, No. 1041, § 2;

"(2) Section 4-37-102(12), amended by Acts 2021, No. 1041, § 3;

"(3) Section 4-37-102(13), amended by Acts 2021, No. 1041, § 4;

"(4) Section 4-37-102(14), amended by Acts 2021, No. 1041, § 5;

"(5) Section 4-37-102(20), amended by Acts 2021, No. 1041, § 6;

"(6) Section 4-37-106, amended by Acts 2021, No. 1041, § 7;

"(7) Section 4-37-107(a)(4), amended by Acts 2021, No. 1041, § 8;

"(8) Section 4-37-108, amended by Acts 2021, No. 1041, § 9;

"(9) Section 4-37-201(c), amended by Acts 2021, No. 1041, § 10;

"(10) Section 4-37-201(d), amended by Acts 2021, No. 1041, § 11;

"(11) Section 4-37-202, amended by Acts 2021, No. 1041, § 12;

"(12) Section 4-37-204(a)(3), amended by Acts 2021, No. 1041, § 13;

"(13) Section 4-37-304(f), amended by Acts 2021, No. 1041, § 14;

"(14) Section 4-37-304(g), amended by Acts 2021, No. 1041, § 15;

"(15) Section 4-37-305, amended by Acts 2021, No. 1041, § 16;

"(16) Section 4-37-403, amended by Acts 2021, No. 1041, § 17;

"(17) Section 4-37-502, amended by Acts 2021, No. 1041, § 18;

"(18) Section 4-37-503, amended by Acts 2021, No. 1041, § 19;

"(19) Section 4-37-604, amended by Acts 2021, No. 1041, § 20;

"(20) Section 4-37-605(1), amended by Acts 2021, No. 1041, § 21;

"(21) Section 4-37-606(1), amended by Acts 2021, No. 1041, § 22;

"(22) Section 4-37-607, amended by Acts 2021, No. 1041, § 23;

"(23) Section 4-37-703(c), amended by Acts 2021, No. 1041, § 24;

"(24) Section 4-37-703(d), amended by Acts 2021, No. 1041, § 25;

"(25) Section 4-42-707(b), amended by Acts 2021, No. 1041, § 27;

"(26) Section 4-47-905(a), amended by Acts 2021, No. 1041, § 28;

"(27) Section 4-70-201(c), amended by Acts 2021, No. 1041, § 29;

"(28) Section 15-4-1215(b), amended by Acts 2021, No. 1041, § 30;

"(29) Section 26-18-303(b)(14)(B), amended by Acts 2021, No. 1041, § 32;

"(30) Section 26-54-104(8), amended by Acts 2021, No. 1041, § 34; and

"(31) Section 26-54-105(h)(2), amended by Acts 2021, No. 1041, § 36.

"(d) Before September 1, 2021, to the extent any codified or uncoded provision of Arkansas law is derived from or depends upon any provision of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., for its meaning or operation:

"(1) The provisions of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., shall be treated as remaining in full force and effect solely for the limited purpose of supplying the requisite meaning or operation to the codified or uncoded provision; and

"(2) Any action or obligation of any public or private individual or entity that

occurred after July 27, 2021, and before September 1, 2021, under a codified or uncoded provision of Arkansas law that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et

seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, approved, and cured notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1.”

SUBTITLE 2. LAND AND WATER RESOURCES GENERALLY

CHAPTER 20

GENERAL PROVISIONS

SUBCHAPTER 4 — CONSERVATION EASEMENT ACT

RESEARCH REFERENCES

ALR. Construction, Improvements, or Uses Permitted Under Conservation Easement. 71 A.L.R.7th Art. 3 (2022).

15-20-402. Definitions.

RESEARCH REFERENCES

ALR. Construction, Improvements, or Uses Permitted Under Conservation Easement. 71 A.L.R.7th Art. 3 (2022).

15-20-403. Applicability and construction.

RESEARCH REFERENCES

ALR. Construction, Improvements, or Uses Permitted Under Conservation Easement. 71 A.L.R.7th Art. 3 (2022).

CHAPTER 22

WATER RESOURCES

SUBCHAPTER 2 — ALLOCATION AND USE GENERALLY

15-22-223. Protection of service areas.

CASE NOTES

Construction.

Where a regional water district challenged a city's longstanding provision of water to manufacturing plants, this section did not grant the regional water district an exclusive right to provide water within its geographical boundaries, and the city was not required to obtain approval from the Arkansas Natural Re-

sources Commission under § 15-22-503 to provide water services to the manufacturing plants because the city's provision of water to the plants did not constitute a water development project requiring prior approval from the commission. *St. Francis River Reg'l Water Dist. v. City of Marmaduke*, 2021 Ark. App. 305, 626 S.W.3d 168 (2021).

SUBCHAPTER 5 — WATER DEVELOPMENT PROJECTS GENERALLY

15-22-503. Arkansas Water Plan.

CASE NOTES

Approval Not Required.

Where a regional water district challenged a city's longstanding provision of water to manufacturing plants, § 15-22-223 did not grant the regional water district an exclusive right to provide water within its geographical boundaries, and the city was not required to obtain approval from the Arkansas Natural Re-

sources Commission under this section to provide water services to the manufacturing plants because the city's provision of water to the plants did not constitute a water development project requiring prior approval from the commission. *St. Francis River Reg'l Water Dist. v. City of Marmaduke*, 2021 Ark. App. 305, 626 S.W.3d 168 (2021).

SUBTITLE 3. FOREST RESOURCES

CHAPTER 32

LOGGING

SUBCHAPTER 3 — TRESPASS AND UNLAWFUL CUTTING

RESEARCH REFERENCES

ALR. Measure of Damages for Wrongful Injuries to Timber. 50 A.L.R.7th Art. 6 (2020).

15-32-301. Liability for unlawfully cutting, etc.**RESEARCH REFERENCES**

ALR. Measure of Damages for Wrongful Injuries to Timber. 50 A.L.R.7th Art. 6 (2020).

TITLE 16**PRACTICE, PROCEDURE, AND COURTS*****SUBTITLE 2. COURTS AND COURT OFFICERS*****CHAPTER.****13. CIRCUIT COURTS.*****SUBTITLE 2. COURTS AND COURT OFFICERS*****CHAPTER 13****CIRCUIT COURTS****SUBCHAPTER.****3. JUVENILE DIVISION OF CIRCUIT COURT GENERALLY.****SUBCHAPTER 3 — JUVENILE DIVISION OF CIRCUIT COURT GENERALLY****SECTION.****16-13-327. Probation officers.****16-13-328. Intake officers.****SECTION.****16-13-331. State reimbursement.**

Effective Dates. Acts 2022, No. 206,
§ 16: July 1, 2022.

16-13-327. Probation officers.

(a) Each juvenile division of circuit court shall be provided with no fewer than one (1) probation officer to manage the probation services and needs of the court.

(b) Each probation officer shall:

(1) Be an employee of the judge or judges of the circuit court designated to hear juvenile cases in the district plan under Arkansas Supreme Court Administrative Order Number 14, originally issued April 6, 2001; and

(2) Serve at the pleasure of the judge or judges.

(c)(1) A probation officer;

(A) Shall be certified as a juvenile probation officer according to the laws of this state;

(B) Must complete initial certification requirements within one (1) year of the officer's employment; and

(C) Must maintain the certification during the terms of his or her employment.

(2) The Juvenile Intake and Probation Officers' Certification Committee, composed of juvenile officers and judges of the circuit court designated to hear juvenile cases in their district plan under Arkansas Supreme Court Administrative Order Number 14 originally issued April 6, 2001, and staffed by an employee of the Administrative Office of the Courts, shall establish certification standards for intake and probation officers.

(3) The office shall collect and maintain records for the juvenile officers' certification documentation.

(d)(1)(A) The salary of the probation officer shall be paid by the county or counties in which the probation officer works.

(B) Except as provided in subdivision (d)(3) of this section, the state shall pay a portion of the salary of a full-time probation officer:

(i) Who is certified according to the laws of this state; and

(ii) Whose salary has been paid by the county or counties for a period of one (1) year.

(2) The portion to be paid by the state shall be the lesser of:

(A) Twenty thousand dollars (\$20,000) per year; or

(B) One-half (½) the probation officer's average salary as calculated over the last twelve (12) months.

(3) For reimbursement under the requirements of this subsection, the state shall reimburse a county only for salaries paid to the number of probation officers that:

(A) Meet the requirements of subdivision (d)(1) of this section; and

(B) Do not exceed two hundred fifty (250) positions authorized by the counties for probation and intake officers, subject to state funding.

History. Acts 1989, No. 418, § 1; 1997, substituted "Twenty thousand dollars No. 1171, § 1; 2003, No. 1166, § 33; 2005, (\$20,000)" for "Fifteen thousand dollars No. 1398, § 2; 2009, No. 956, § 31; 2022, (\$15,000)" in (d)(2)(A). No. 206, § 11.

Effective Dates. Acts 2022, No. 206,

Amendments. The 2022 amendment § 16: July 1, 2022.

16-13-328. Intake officers.

(a) Each juvenile division of circuit court shall be provided with no fewer than one (1) intake officer to manage the intake needs of the court.

(b) Each intake officer shall:

(1) Be employed by the judge or judges of the circuit court designated to hear juvenile cases in the district's plan under Arkansas Supreme Court Administrative Order Number 14, originally issued April 6, 2001; and

(2) Serve at the pleasure of the judge or judges.

(c)(1) Each intake officer:

(A) Shall be certified as a juvenile intake officer according to the laws of this state;

(B) Must complete initial certification requirements within one (1) year of the officer's employment; and

(C) Must maintain the certification during the terms of employment.

(2) The Juvenile Intake and Probation Officers' Certification Committee, composed of juvenile officers and judges of the circuit court designated to hear juvenile cases in the district plan under the order and staffed by an employee of the Administrative Office of the Courts, shall establish certification standards for intake and probation officers.

(3) The office shall collect and maintain records for the juvenile officers' certification documentation.

(d)(1)(A) The salary of the intake officer shall be paid by the county or counties in which the intake officer works.

(B) Except as provided in subdivision (d)(3) of this section, the state shall pay a portion of the salary of a full-time intake officer:

(i) Who is certified according to the laws of this state; and

(ii) Whose salary has been paid by the county or counties for a period of one (1) year.

(2) The portion to be paid by the state shall be the lesser of:

(A) Twenty thousand dollars (\$20,000) a year; or

(B) One-half ($\frac{1}{2}$) the intake officer's average salary as calculated over the last twelve (12) months.

(3) The state shall reimburse a county only for a portion of salaries paid to the number of intake officers that:

(A) Meet the requirements of subdivision (d)(1) of this section; and

(B) For reimbursement under the requirements of this subsection, do not exceed two hundred fifty (250) positions authorized by the counties for probation and intake officers, subject to state funding.

(e) In order for the General Assembly to make an informed decision on any appropriation increase request, the office shall include with any request for an appropriation increase for juvenile court probation officers that is over the previous fiscal year total appropriation the following information:

(1) A letter explaining the purpose or reason for the requested appropriation increases along with a total dollar amount requested, the change level or increase requested, and the funding source of the increase; and

(2) For all juvenile court probation officers, a report that includes:

(A) Current salaries and previous fiscal years salaries;

(B) Current years of service; and

(C) Listing of salary increases received by an employee during the current or previous fiscal year.

(f)(1) Each circuit judge whose primary responsibility is conducting hearings for the involuntary admission or commitment of persons to the

Arkansas State Hospital or any other public or private hospital with a fully trained psychiatrist on the active or consultant staff shall be provided with no fewer than one (1) intake officer to manage the intake needs of the court.

(2) The salaries of the intake officers shall be paid by the county or counties in which the intake officers work, with the state's paying a portion, e.g., the lesser of either fifteen thousand dollars (\$15,000) per year or one-half (½) of each full-time intake officer's annual salary.

History. Acts 1989, No. 418, § 2; 1991, No. 794, § 1; 1997, No. 1171, § 2; 2003, No. 1166, § 34; 2005, No. 1398, § 3; 2009, No. 956, § 32; 2022, No. 206, § 12.

Amendments. The 2022 amendment substituted "Twenty thousand dollars

(\$20,000)" for "Fifteen thousand dollars (\$15,000)" in (d)(2)(A); and inserted present (e) and redesignated former (e) as (f).

Effective Dates. Acts 2022, No. 206, § 16; July 1, 2022.

16-13-331. State reimbursement.

(a) The Administrative Office of the Courts shall administer the state reimbursement to the counties for the juvenile officers' previous year's salaries.

(b) In order for a county to receive the state reimbursement for juvenile officers, the county must submit the following documentation to the office, including without limitation:

(1) Proof of each juvenile officer's certification and continuing education hours;

(2) A copy of each juvenile officer's W-2 form for the salary year that is being reimbursed; and

(3) A completed form concerning the employment status of the juvenile officer which shall be designed and distributed by the office.

(c) If a county contracts with a service provider to provide juvenile services pursuant to § 16-13-330, the county must submit documentation to the office, including without limitation:

(1) A copy of the contract for the salary year that is being reimbursed;

(2) A copy of each juvenile officer's certification and continuing education hours;

(3) A copy of each juvenile officer's W-2 form for the salary year that is being reimbursed; and

(4) A completed form concerning the employment status of each juvenile officer which shall be designed and distributed by the office.

(d)(1) A county may determine that part-time service of a juvenile officer is sufficient to meet the needs of the county.

(2)(A) Multiple counties in a judicial district may share the cost of the salary of the juvenile officer.

(B) One (1) county may be designated as the county to be reimbursed by the state, or each county shall designate the portion of the salary that it pays for juvenile services.

(3)(A) A county may contract with a service provider for full-time or part-time juvenile officer services, and the county shall indicate the

percentage of the contractor's time that is spent providing juvenile officer services for the county.

(B) The county or the contractor shall be reimbursed for one-half (½) of the portion of the salary that is used for such services, up to twenty thousand dollars (\$20,000).

(e) Nothing in this section removes the obligation of each circuit judge designated to hear juvenile cases in a district plan under Supreme Court Administrative Order No. 14, originally issued April 6, 2001, to have a minimum of one (1) intake officer, pursuant to § 16-13-328, and one (1) probation officer, pursuant to § 16-13-327.

(f) Funds appropriated for county reimbursement as provided in this section and for which a county has not submitted reimbursement documentation by January 1 of each year as required under subsection (b) of this section may be distributed to a county based on the following factors:

(1) The use of or inability of a county to use risk assessment and behavioral health screenings;

(2) The financial need of the county;

(3) The juvenile crime rate of the county;

(4) The juvenile division of circuit court reduction in commitments and the need for community service in the county; and

(5) The plan of the juvenile division of circuit court or the county for the use of funds for the provision of juvenile officer services.

History. Acts 1997, No. 321, § 1; 1999, No. 460, § 2; 2003, No. 1166, § 37; 2016, No. 87, § 4; 2019, No. 941, § 1; 2021, No. 475, § 12; 2022, No. 206, § 13.

Amendments. The 2016 amendment substituted "Administrative Office of the Courts" for "Auditor of State" throughout the section.

The 2019 amendment deleted "intake and probation" following "juvenile" in the introductory language of (b) and (c), and in (d)(2)(B) and twice in (d)(3)(A); substituted "the county" for "a county" in (d)(1); substituted "juvenile officer" for "in-take

and probation officer" in (d)(2)(A); and added (f).

The 2021 amendment, in the introductory language of (b) and (c), substituted "without limitation" for "but not limited to"; and inserted "juvenile" preceding "officer" in (b)(3) and (c)(4).

The 2022 amendment substituted "twenty thousand dollars (\$20,000)" for "fifteen thousand dollars (\$15,000)" in (d)(3)(B).

Effective Dates. Acts 2022, No. 206, § 16: July 1, 2022.

SUBCHAPTER 7 — ENFORCEMENT OF FINES

16-13-702. Immediate payment.

CASE NOTES

Judicial Immunity.

Circuit court properly granted summary judgment in favor of a state district court judge in defendants' class action challenging the constitutionality and legality of various practices concerning

bond, the appointment of counsel, and the imposition and payment of fines because the judge's actions were clearly judicial functions that the judge carried out in his judicial capacity and the record demonstrated that defendants sought retrospec-

tive declaratory relief, which was insufficient to overcome judicial immunity. *Mahoney v. Derrick*, 2022 Ark. 27 (2022).

16-13-703. Imprisonment.

CASE NOTES

Judicial Immunity.

Circuit court properly granted summary judgment in favor of a state district court judge in defendants' class action challenging the constitutionality and legality of various practices concerning bond, the appointment of counsel, and the imposition and payment of fines because

the judge's actions were clearly judicial functions that the judge carried out in his judicial capacity and the record demonstrated that defendants sought retrospective declaratory relief, which was insufficient to overcome judicial immunity. *Mahoney v. Derrick*, 2022 Ark. 27 (2022).

16-13-704. Installment payments — Definition.

CASE NOTES

Judicial Immunity.

Circuit court properly granted summary judgment in favor of a state district court judge in defendants' class action challenging the constitutionality and legality of various practices concerning bond, the appointment of counsel, and the imposition and payment of fines because

the judge's actions were clearly judicial functions that the judge carried out in his judicial capacity and the record demonstrated that defendants sought retrospective declaratory relief, which was insufficient to overcome judicial immunity. *Mahoney v. Derrick*, 2022 Ark. 27 (2022).

CHAPTER 22

ATTORNEYS AT LAW

SUBCHAPTER 3 — RIGHTS AND LIABILITIES

16-22-308. Attorney's fees in certain civil actions.

CASE NOTES

ANALYSIS

Fees Allowed.
Reversal of Judgment.

Fees Allowed.

Arkansas courts have found that the presence of a choice-of-law provision has no bearing on a party's right to recover attorney's fees under this section; accordingly, the subcontract's silence as to the subcontractor's ability to recover attorney's fees as the prevailing party did not operate as a waiver of its right to recover

such fees under this section. *Randy Kinder Excavating, Inc. v. JA Manning Constr. Co.*, 8 F.4th 724 (8th Cir. 2021).

Reversal of Judgment.

In this breach of contract action arising from a residential construction repair, given the plain language of the contract mandating an award of attorney's fees, the circuit court erred in failing to award the contractor attorney's fees under this section. *Dye v. Precision Found. Specialties & Flow Rite Drainage Sols., Inc.*, 2022 Ark. App. 220, 646 S.W.3d 168 (2022).

SUBTITLE 4. EVIDENCE AND WITNESSES**CHAPTER 43****WITNESSES GENERALLY****SUBCHAPTER 10 — MINORS**

16-43-1001. Closed-circuit television and remote testimony.

RESEARCH REFERENCES

ALR. Privacy Rights of Child Victim of Crime in Legal Proceeding Under State Statute. 69 A.L.R.7th Art. 3 (2022).

CHAPTER 44**DEPOSITIONS****SUBCHAPTER 2 — CRIMINAL PROCEEDINGS**

16-44-203. Videotaped deposition of alleged victim under 17 years of age in sexual offense prosecution.

RESEARCH REFERENCES

ALR. Privacy Rights of Child Victim of Crime in Legal Proceeding Under State Statute. 69 A.L.R.7th Art. 3 (2022).

CHAPTER 46**DOCUMENTARY EVIDENCE GENERALLY****SUBCHAPTER 1 — GENERAL PROVISIONS**

16-46-108. Photographically reproduced records admissible in court.

CASE NOTES

Cited: Chism v. Chism, 2021 Ark. App. 373 (2021).

SUBTITLE 5. CIVIL PROCEDURE GENERALLY

CHAPTER 56

LIMITATION OF ACTIONS

SUBCHAPTER 1 — GENERAL PROVISIONS

16-56-105. Actions with limitation of three years.

CASE NOTES

ANALYSIS

Civil Rights.
Service of Process.

Civil Rights.

Arrestees’ 42 U.S.C. § 1983 false imprisonment and unlawful search and seizure claims were time-barred under the three-year Arkansas personal injury statute of limitations because the seizure of the arrestees’ property, the issuance of arrest warrants, and the filing of the criminal information took place some seven years before the case was filed. *Martin v. Julian*, 18 F.4th 580 (8th Cir. 2021).

Service of Process.

In a motor vehicle accident case, the out-of-state defendants were properly dis-

missed with prejudice because service of the warning orders did not strictly comply with the requirements of Ark. R. Civ. P. 4 and was completed outside the three-year statute of limitations for negligence actions and well past the last valid extension of time for service; the circuit court properly found that plaintiffs failed to show good cause when they obtained the various extensions of time to serve the complaint under Ark. R. Civ. P. 4(i)(2) as they had merely incorporated the prior filings and failed to detail the efforts made since any previous extension, and the dismissal-without-prejudice language in Ark. R. Civ. P. 4(i) does not apply if the action is otherwise barred by the running of a statute of limitations. *McCue v. Dominguez*, 2022 Ark. App. 211, 646 S.W.3d 184 (2022).

16-56-111. Notes and instruments in writing and other writings.

CASE NOTES

Royalties.

In plaintiff’s action alleging that defendants had been underpaying monthly oil and gas royalty payments for more than five years, the court accepted a certified question from the federal district court and concluded that a separate statute of limitations period under subsection (a) of this section began as each monthly royalty payment became due and therefore the

fact that the first breach occurred outside the five-year statute of limitations period did not bar the action. The damage element of breach of contract would have been established monthly and, potentially, in a different amount each month; those were separate and singular breaches under Arkansas law. *Pennington v. BHP Billiton Petro. (Fayetteville), LLC*, 2021 Ark. 179, 631 S.W.3d 555 (2021).

16-56-114. Judgments and decrees.**CASE NOTES****Divorce Decree.**

In a contempt proceeding concerning the ex-husband's removal of his children as beneficiaries to his life insurance policy and his removal of his ex-wife as survivor beneficiary to his civil service retirement plan, because the requirements in the 1999 divorce decree regarding the

amounts and beneficiaries of his life insurance policy and retirement plan did not expire, the circuit court did not err in failing to apply the 10-year statute of limitations to the ex-wife's claims. *Matthews v. Matthews*, 2021 Ark. App. 411 (2021).

16-56-126. Commencement of new action or filing mandate after nonsuit or arrest or reversal of judgment.**CASE NOTES****Commencement of New Action.**

Circuit court did not err in dismissing plaintiff's second complaint that used the same case number as the original complaint, which had been dismissed, based on the failure to properly commence the

new action pursuant to the savings statute because a new case number is mandatory under Ark. R. Civ. P. 3 in a case that is refiled after having been dismissed. *Friday v. MCSA, LLC*, 2022 Ark. App. 169 (2022).

CHAPTER 58**COMMENCEMENT OF ACTION — PROCESS****16-58-121. Method of service — Nonresident or absent owner, chauffeur, driver, or operator — Survival of action.****CASE NOTES**

Cited: *McCue v. Domínguez*, 2022 Ark. App. 211, 646 S.W.3d 184 (2022).

CHAPTER 60**VENUE****SUBCHAPTER 1 — GENERAL PROVISIONS****16-60-106. Actions on debt, account, or note against certain public entities.****CASE NOTES****Breach of Contract.**

Appellate court could not reach the merits of the builder's claim that the city's claim in Benton County should have been dismissed because the builder failed to

obtain a ruling from the circuit court on that issue; and this section provided the basis for dismissing the builder's lawsuit as it was an impermissible attempt to litigate the parties' breach of contract dis-

pute in Pulaski County rather than in Benton County. Twp. Builders, Inc. v. City of Gravette, 2022 Ark. App. 261, 646 S.W.3d 402 (2022).

CHAPTER 62
SURVIVAL AND ABATEMENT OF ACTIONS

16-62-101. Survival of actions — Wrongs to person or property.

CASE NOTES

ANALYSIS

Limitation of Actions.
Medical Malpractice.

Limitation of Actions.

Circuit court did not err by finding that the amended survival claim was barred under this section as appellant brought the initial survival claim in her individual capacity and not as administrator of the decedent's estate; thus, she lacked standing, the initial survival claim was a nullity, and the amended claim substituting her as the administrator was a new claim that was barred by the statute of limitations. Dismissal of the amended wrongful death claim was reversed, however, because appellant validly brought the claim

in the original complaint as the decedent's only heir at law under § 16-62-102(b). Branch v. St. Bernards Healthcare, 2022 Ark. App. 123, 643 S.W.3d 22 (2022).

Medical Malpractice.

Trial court did not err by dismissing the complaint because the personal representative's original complaint was a nullity since the estates of the mother and baby did not have standing to bring a survival action when the representative had been appointed personal representative. By the time the representative attempted to file an "amended" complaint, the two-year medical negligence statute of limitations had expired. Epps v. Ouachita Cty. Med. Ctr., 2021 Ark. App. 389, 636 S.W.3d 787 (2021).

16-62-102. Wrongful death actions — Survival.

CASE NOTES

ANALYSIS

Conflict of Laws.
Statute of Limitations.

Conflict of Laws.

Trial court erred in denying two sisters' claim for a portion of wrongful-death settlement proceeds obtained by a third sister as executor of their brother's estate because the primary issue in the case was

whether the Arkansas Wrongful Death Act or the Texas Wrongful Death Act was applicable with respect to the settlement proceeds, it was patently clear that Arkansas had a much greater relationship to the parties and litigation involved, and, other than being the occurrence of the accident site, Texas lacked any significant link to the litigation. Estate of Shockley v. Bassett, 2021 Ark. App. 326, 634 S.W.3d 787 (2021).

Statute of Limitations.

Dismissal of the amended wrongful death claim was reversed, because appellant validly brought the claim in the origi-

nal complaint as the decedent's only heir at law under subsection (b) of this section. *Branch v. St. Bernards Healthcare*, 2022 Ark. App. 123, 643 S.W.3d 22 (2022).

CHAPTER 63**PLEADINGS AND PRETRIAL PROCEEDINGS****SUBCHAPTER 4 — CONTINUANCE OR DISMISSAL****16-63-402. Continuance for absence of evidence or witness.****RESEARCH REFERENCES**

ALR. Propriety of Continuance to Accommodate Pregnancy or Birth of Child. 53 A.L.R.7th Art. 6 (2020).

SUBCHAPTER 5 — CITIZEN PARTICIPATION IN GOVERNMENT ACT**16-63-504. Immunity from suit.****RESEARCH REFERENCES**

ALR. Application of Anti-SLAPP ("Strategic Lawsuit Against Public Participa- tion") Statutes to Civil Rights Claims. 51 A.L.R.7th Art. 4 (2020).

16-63-505. Verification requirement.**RESEARCH REFERENCES**

ALR. Application of Anti-SLAPP ("Strategic Lawsuit Against Public Participa- tion") Statutes to Civil Rights Claims. 51 A.L.R.7th Art. 4 (2020).

16-63-506. Failure to properly verify.**RESEARCH REFERENCES**

ALR. Application of Anti-SLAPP ("Strategic Lawsuit Against Public Participa- tion") Statutes to Civil Rights Claims. 51 A.L.R.7th Art. 4 (2020).

SUBTITLE 6. CRIMINAL PROCEDURE GENERALLY**CHAPTER 84****BAIL GENERALLY****SUBCHAPTER 2 — FORFEITURE****16-84-207. Action on bail bond in circuit courts.****CASE NOTES****Forfeiture of Bond.**

Bond forfeiture judgment was proper because the offender was ordered to appear in the circuit court, and when appellant bail bond company failed to secure his

appearance, the bond was subject to forfeiture; the bail bond company failed to show cause why its bond should not be forfeited. *First Ark. Bail Bonds, Inc. v. State*, 2022 Ark. App. 189 (2022).

CHAPTER 85**PRETRIAL PROCEEDINGS****SUBCHAPTER 7 — ARRAIGNMENT AND PLEADING GENERALLY****16-85-714. No contact orders — Definitions.****CASE NOTES****Order Appropriate.**

Grant of an order prior to trial prohibiting appellant from contact with the victim did not provide a meritorious ground for reversal where the order was entered because appellant had frequently con-

tacted the victim against her wishes in an attempt to convince her to change her testimony to be favorable to him. *Ludwick v. State*, 2021 Ark. App. 347, 635 S.W.3d 330 (2021) (no-merit brief).

CHAPTER 89**TRIAL AND VERDICT****16-89-101. Trial times and postponements.****RESEARCH REFERENCES**

ALR. Propriety of Continuance to Accommodate Pregnancy or Birth of Child. 53 A.L.R.7th Art. 6 (2020).

16-89-103. Presence of defendant.**CASE NOTES****ANALYSIS**

Felony.

—Voluntary Absence.

Felony.

—Voluntary Absence.

Circuit court did not abuse its discretion in allowing defendant's sentencing to proceed after he failed to appear for the second day of the hearing because defen-

dant was present for the first day of his sentencing trial, and he was present when the court announced that the proceedings would take a break for today and come back tomorrow. Defendant therefore had notice that his sentencing would continue the next day and nonetheless, he voluntarily failed to return for the remainder of the proceedings. *Wilson v. State*, 2021 Ark. App. 333 (2021).

16-89-110. Opening statements.**RESEARCH REFERENCES**

ALR. Use of Term "Victim" to Refer to Decedent in Homicide Trial as Prejudicial Error. 72 A.L.R.7th Art. 6 (2022).

16-89-125. Deliberation of jury.**CASE NOTES**

Exhibits.

There was no verbatim record of the discussion between the court and counsel about how to respond to a jury note requesting to replay a video of an interview of defendant that had previously been admitted and made an exhibit during the trial, and this was error, and the replaying of the video occurred in the jury-deliberation room, outside the presence of the judge and the parties and without the

benefit of a verbatim record, which also was error as the CDs contained additional content that the jury had not seen during the trial. However, the presumption of prejudice was rebutted because the parties agreed to the procedure for replaying the interview and there was nothing to indicate that defendant suffered any prejudice when the interview was replayed. *Lewondowski v. State*, 2022 Ark. 46, 639 S.W.3d 850 (2022).

16-89-130. New trial.**RESEARCH REFERENCES**

ALR. Use of Term "Victim" to Refer to Decedent in Homicide Trial as Prejudicial Error. 72 A.L.R.7th Art. 6 (2022).

CHAPTER 90

JUDGMENT AND SENTENCE GENERALLY

SUBCHAPTER 1 — GENERAL PROVISIONS

16-90-111. Correction or reduction of sentence.

RESEARCH REFERENCES

ALR. Reduction of Sentence Under — Federal Appellate Cases. 54 A.L.R. First Step Act, 18 U.S.C. §§ 3631 et seq. Fed. 3d Art. 2 (2020).

CASE NOTES

ANALYSIS

Petition Denied.
Sentence Valid.

Petition Denied.

Circuit court did not err in denying defendant’s petition to correct an illegal sentence because his challenges to the validity of his arrest and the charging instruments were not cognizable under this section; allegations that challenged the constitutionality of a sentence that was within the statutory range, such as one based on the Eighth Amendment, were claims of trial error that were properly raised at trial; and defendant’s allegation that he received ineffective assistance of counsel was not cognizable in a

petition to correct an illegal sentence, and that claim should have been asserted in a timely petition for postconviction relief. *Mister v. State*, 2022 Ark. 35, 639 S.W.3d 331 (2022).

Sentence Valid.

Appellant’s pro se petition to correct illegal sentence, which contended that his previous convictions for two counts of terroristic act were merged into one count for purposes of § 5-4-501(d) after he pleaded guilty, lacked merit as appellant admitted he was given two concurrent sentences for those previous convictions; thus, appellant’s life sentence as a habitual offender was legal on its face and it was clearly within the prescribed statutory range. *Coakley v. State*, 2021 Ark. 180 (2021).

16-90-120. Felony with firearm.

CASE NOTES

Parole Eligibility.

Circuit court erred by concluding that the legislature intended to deny parole to persons such as appellant because appellant was entitled to a parole-eligibility determination for the separate 15-year firearm enhancement pursuant to the statutes in effect when he committed the offense of aggravated robbery in 2005 before the 2007 statutory amendment. The plain language of subsection (e) of this section suggests that the legislature clearly indicated that the amended version of the statute was to be applied prospectively to crimes occurring after a spe-

cific date. *Rogers v. Ark. Dep’t of Corr.*, 2022 Ark. 19, 638 S.W.3d 265 (2022).

As conceded by the State and under the *Rogers* holding, 2022 Ark. 19, 638 S.W.3d 265, defendants’ enhancements for use of a firearm in the commission of a felony were subject to the parole eligibility law in place when the offense was committed; consequently, defendants’ parole eligibility was to be calculated based on § 16-93-1301 and the appellate court remanded with directions for the circuit court to issue the writ of mandamus. *Perry v. Payne*, 2022 Ark. 112 (2022).

CHAPTER 93

PROBATION AND PAROLE

SUBCHAPTER 3 — PROBATION AND SUSPENDED IMPOSITION OF SENTENCE

16-93-307. Probation generally — Revocation hearings.

CASE NOTES

ANALYSIS

Due Process.
Failure to Hold Hearing.

Due Process.

Finding that appellant violated the probation condition requiring him to report on Halloween night was affirmed where the petition clearly alleged that he was in violation of the condition even though it incorrectly referred to “Condition 18”

rather than to “Condition 6”. *Brookshire v. State*, 2021 Ark. App. 315, 633 S.W.3d 782 (2021).

Failure to Hold Hearing.

Circuit court erred in revoking defendant’s probation because the court failed to hold a revocation hearing as required by this section, and defendant had no opportunity to raise an objection prior to the entry of the sentencing order. *Stuebinger v. State*, 2022 Ark. App. 218 (2022).

16-93-308. Probation generally — Revocation — Definition.

CASE NOTES

ANALYSIS

Jurisdiction.
Revocation Improper.
Revocation Proper.
—Failure to Pay Fines, Costs, Fees.
—Failure to Report.
—New Offenses.
Sentence After Revocation.

Jurisdiction.

Circuit court had no jurisdiction to revoke defendant’s probation, as the circuit court had no authority to impose a sentence of 15 months’ probation for an offense with a maximum sentence of 12 months, making the sentence illegal; probation could not have been imposed for a period past February 15, 2019, and defendant was not on probation in April 2019 when the petition to revoke was filed. *Burton v. State*, 2021 Ark. App. 471, 636 S.W.3d 398 (2021).

This case is distinguishable from *Ransom v. State*, 2019 Ark. App. 563, 591 S.W.3d 359 (2019). While the specific length of probation was not included in the order, the four corners of the order itself indicated that petitioner was as-

signed to probation and that the conditions of probation, which indicated she had been placed on probation for six years, were attached to the order; it would have been unnecessary to have terms and conditions of probation if petitioner had been sentenced to zero months of probation and the circuit court had jurisdiction to revoke her probation. *Price v. State*, 2022 Ark. App. 104, 641 S.W.3d 76 (2022).

Revocation Improper.

Circuit court erred by revoking defendant’s probation for failure to complete the domestic violence treatment program as there was no deadline for completing the program, so defendant had until the end of his probation to complete it; and the uncontroverted testimony at the hearing was that defendant was current on his fines and fees. *Howe v. State*, 2022 Ark. App. 56, 639 S.W.3d 915 (2022).

Revocation Proper.

Revocation of suspended sentence upheld. *Grunenburg v. State*, 2021 Ark. App. 278 (2021).

Revocation of probation upheld. *Krachey v. State*, 2021 Ark. App. 342 (2021) (no-merit brief).

Circuit court properly revoked defendant's probation because a term of his probation prohibited defendant from unsupervised contact with minors, he did not contest having unsupervised contact with his minor children on the day of the probation officer's home visit, and despite his alleged justification for doing so, the judgment was not clearly against the preponderance of the evidence. *Duvall v. State*, 2022 Ark. App. 87, 640 S.W.3d 442 (2022).

—Failure to Pay Fines, Costs, Fees.

Trial court did not err by revoking defendant's probation because he inexcusably violated the conditions of his probation by failing to pay his supervision fees. Defendant's testimony that he had been in a homeless shelter and thus could not pay was offered only during sentencing after the circuit court had already revoked his probation. *Long v. State*, 2022 Ark. App. 69, 639 S.W.3d 894 (2022).

—Failure to Report.

Circuit court's finding that defendant willfully failed to comply with the conditions of his probation was not clear error, and the revocation of defendant's probation was upheld; a psychological evaluation found defendant fit to proceed, and he

testified that he understood the directions to report for probation, but decided not to report. *Lockett v. State*, 2022 Ark. App. 41, 639 S.W.3d 879 (2022).

Circuit court did not clearly err by revoking defendant's probation after finding that defendant inexcusably failed to comply with the terms and conditions of his probation. He proffered no justification or excuse for his failure to report or failure to provide a current address and the State presented evidence that the COVID-19 pandemic did not prevent defendant from reporting. *Stuebinger v. State*, 2022 Ark. App. 217 (2022).

—New Offenses.

Revocation of suspended sentence upheld. *Bennett v. State*, 2021 Ark. App. 351, 634 S.W.3d 581 (2021).

Sentence After Revocation.

Appellant's sentence following revocation of his probation after he failed to report on Halloween night was not excessive where he had been placed on probation for second-degree sexual assault, and the 12-year sentence imposed by the circuit court was within the sentencing range for that Class B felony. *Brookshire v. State*, 2021 Ark. App. 315, 633 S.W.3d 782 (2021).

SUBCHAPTER 6 — PAROLE — ELIGIBILITY

16-93-609. Effect of more than one conviction for certain felonies — Definition.

CASE NOTES

Parole.

Circuit court did not abuse its discretion when it dismissed the inmate's declaratory judgment action challenging the determination of his parole eligibility by officials with the Department of Corrections because § 16-93-609 was not ambiguous in that it clearly included a violation of § 5-74-107 in its definition of a prior violent felony (by reference to § 5-4-

501). The statutes cited by defendant were harmonic because §§ 5-74-103(2) and 5-74-107(b), which define "crime of violence" differently, are criminal statutes, while § 16-93-609 relates to punishment and when an executive agency is limited in how it applies its discretion related to parole eligibility. *Husia Harkuf v. Marony*, 2022 Ark. 55, 639 S.W.3d 872 (2022).

16-93-621. Parole eligibility — A person who was a minor at the time of committing an offense that was committed before, on, or after March 20, 2017.

CASE NOTES

Juveniles Sentenced to Life Imprisonment.

Defendant's life sentence following resentencing for a capital murder that he committed as a juvenile was proper because the circuit court's statements from the bench and the sentencing addendum showed that the circuit court considered all evidence in determining that life with

the possibility of parole was the appropriate sentence. Defendant showed that he disagreed with the determination of an appropriate sentence, but he failed to show that the circuit court acted improvidently, thoughtlessly, or without due consideration. *Williams v. State*, 2022 Ark. 106, 644 S.W.3d 243 (2022).

SUBCHAPTER 7 — PAROLE

16-93-701. Authority to grant and parameters.

CASE NOTES

Due Process.

Circuit court did not abuse its discretion when it dismissed prisoner's complaint for failing to state a claim for relief pursuant to the Administrative Procedure Act because he failed to show a constitutional violation related to the denial of parole; with regard to his due process claim, the prisoner failed to demonstrate that the Arkansas parole procedures created a liberty interest in parole because due to the

seriousness of his crime, granting parole was discretionary, and even if due process was required of the Parole Board in determining the prisoner's eligibility, the evidence demonstrated that the prisoner was provided with the full extent of process that was constitutionally required, and the prisoner also failed to sufficiently allege or demonstrate a basis for an equal protection claim. *Wood v. Ark. Parole Bd.*, 2022 Ark. 30, 639 S.W.3d 340 (2022).

CHAPTER 97

SENTENCING

16-97-103. Evidence.

CASE NOTES

ANALYSIS

Admissibility.

Character Evidence.

Admissibility.

Trial court did not abuse its considerable discretion in admitting evidence at defendant's sentencing hearing of a subsequent incident; the subsequent violent encounter between defendant and police officers was similar to the prior incident that resulted in the charges for which he

was being sentenced. Defendant's separate Rule 403 argument was not preserved. *Williams v. State*, 2022 Ark. App. 101, 641 S.W.3d 83 (2022).

Character Evidence.

In a *Miller v. Alabama* jury resentencing hearing, the circuit court properly sustained the State's objection to certain testimony because the deputy warden did not know defendant when he was a juvenile, and any evidence comparing defendant's character and subsequent rehabilitation

to the character and rehabilitation of other inmates was irrelevant. *Elliott v. State*, 2021 Ark. 114 (2021).

SUBTITLE 7. PARTICULAR PROCEEDINGS AND REMEDIES

CHAPTER 108

ARBITRATION AND AWARD

SUBCHAPTER 2 — UNIFORM ARBITRATION ACT

16-108-201. Definitions.

RESEARCH REFERENCES

ALR. Failure to Pay Arbitration Fees or Costs as Cause to Remove Stay and Re-open Court Proceedings. 67 A.L.R. Fed. 3d Art. 1 (2022).

16-108-204. Effect of agreement to arbitrate — Nonwaivable provisions.

RESEARCH REFERENCES

ALR. Integration or Merger Clause in Vehicle Purchase Agreement or Installment Contract as Affecting Enforceability of Separately Executed Arbitration Clause. 52 A.L.R.7th Art. 3 (2020).

16-108-206. Validity of agreement to arbitrate.

RESEARCH REFERENCES

ALR. Integration or Merger Clause in Vehicle Purchase Agreement or Installment Contract as Affecting Enforceability of Separately Executed Arbitration Clause. 52 A.L.R.7th Art. 3 (2020).

16-108-221. Remedies — Fees and expenses of arbitration proceeding.

RESEARCH REFERENCES

ALR. Failure to Pay Arbitration Fees or Costs as Cause to Remove Stay and Re-open Court Proceedings. 67 A.L.R. Fed. 3d Art. 1 (2022).

16-108-225. Judgment on award — Attorney's fees and litigation expenses.

RESEARCH REFERENCES

ALR. Failure to Pay Arbitration Fees or Costs as Cause to Remove Stay and Re-open Court Proceedings. 67 A.L.R. Fed. 3d Art. 1 (2022).

16-108-233. Savings clause — Certain actions excluded.

RESEARCH REFERENCES

ALR. Choice-of-Law Provision of Arbitration Agreement as Improper Prospective Waiver of Rights Rendering Agreement Unenforceable Under Federal Arbitration Act (FAA) (9 U.S.C. §§ 1 et seq.) — Post-Mitsubishi. 58 A.L.R. Fed. 3d Art. 6 (2021).

CHAPTER 110

ATTACHMENT AND GARNISHMENT

SUBCHAPTER 4 — GARNISHMENT PROCEEDINGS

RESEARCH REFERENCES

ALR. Construction and Application of State Statutes Limiting Garnishment of Wages. 64 A.L.R.7th Art. 3 (2021).

16-110-415. Garnishment of wages.

RESEARCH REFERENCES

ALR. Construction and Application of State Statutes Limiting Garnishment of Wages. 64 A.L.R.7th Art. 3 (2021).

CHAPTER 111

UNIFORM DECLARATORY JUDGMENTS ACT

16-111-102. Power to construe, etc.

CASE NOTES

Applicability.

Trial court did not err in dismissing the builder's complaint for declaratory judgment because the builder's complaint fell

outside the scope of the declaratory judgment statute as it requested that the circuit court hear evidence and make factual findings as to whether the builder

breached its contract. *Twp. Builders, Inc. v. City of Gravette*, 2022 Ark. App. 261, 646 S.W.3d 402 (2022).

CHAPTER 112

HABEAS CORPUS

SUBCHAPTER 1 — GENERAL PROVISIONS

16-112-101. Procedure.

CASE NOTES

Writ Denied.

Circuit court did not clearly err in dismissing petition for a writ of habeas corpus because petitioner's claims did not fall within the purview of habeas relief. Petitioner did not allege that the judgment and conviction order was illegal on its face or that the trial court lacked jurisdiction;

the trial court had jurisdiction to impose the sentences reflected on the face of the judgment and conviction order, and they did not exceed the maximum penalty for a Class D or Y felony. *Wade v. Payne*, 2021 Ark. 116, 623 S.W.3d 568 (2021).

Petition for writ of habeas corpus denied. *Hill v. Kelley*, 2022 Ark. 3 (2022).

16-112-102. Officers permitted to issue.

CASE NOTES

Cited: *Wells v. State*, 2021 Ark. 195, 632 S.W.3d 738 (2021).

SUBCHAPTER 2 — NEW SCIENTIFIC EVIDENCE

16-112-202. Form of motion.

CASE NOTES

Postconviction DNA Testing.

Trial court did not err in holding that habeas petitioner met none of the requirements of § 16-112-201 et seq. because petitioner failed to identify any new, generally accepted scientific technology or method that would have produced new evidence to establish that he was innocent

of rape. Moreover, the trial court correctly noted that the evidence petitioner sought to test had not been used to convict him because the victim's testimony that she was orally raped provided substantial evidence of rape. *Makkali v. State*, 2022 Ark. 24, 638 S.W.3d 280 (2022).

CHAPTER 114
MALPRACTICE ACTIONS

SUBCHAPTER 2 — ACTIONS FOR MEDICAL INJURY

RESEARCH REFERENCES

ALR. Medical Malpractice: Brain. 52 A.L.R.7th Art. 1 (2020).

Medical Malpractice: Dental Crowns or Bridges. 58 A.L.R.7th Art. 2 (2021).

Medical Malpractice Claims Involving Instances of Sepsis or Septic Shock: Standard of Care, Sufficiency of Evidence of Causation, Expert Testimony and Evidence, Affidavits of Merit, and Additional Evidentiary and Discovery Matters. 62

A.L.R.7th Art. 2 (2021).

Medical Malpractice Claims Involving Instances of Sepsis or Septic Shock: Negligence, Damages, Jury Instructions, Vicarious Liability, Statutes of Limitation, Arbitration, and Other Considerations. 72 A.L.R.7th Art. 4 (2022).

16-114-201. Definitions.

CASE NOTES

Medical Injury.

All three defendants were medical care providers, and the only injury alleged by the representative was a medical injury that resulted in the tragic deaths of the mother and her baby during childbirth. Therefore, all of the claims, including neg-

ligence in the dispatch of the ambulance and negligent supervision and retention, were subsumed into a cause of action for medical malpractice with its two-year statute of limitations. *Epps v. Ouachita Cty. Med. Ctr.*, 2021 Ark. App. 389, 636 S.W.3d 787 (2021).

16-114-202. Applicability.

RESEARCH REFERENCES

ALR. Medical Malpractice: Brain. 52 A.L.R.7th Art. 1 (2020).

Medical Malpractice: Dental Crowns or Bridges. 58 A.L.R.7th Art. 2 (2021).

Medical Malpractice Claims Involving Instances of Sepsis or Septic Shock: Standard of Care, Sufficiency of Evidence of Causation, Expert Testimony and Evidence, Affidavits of Merit, and Additional Evidentiary and Discovery Matters. 62

A.L.R.7th Art. 2 (2021).

Medical Malpractice Claims Involving Instances of Sepsis or Septic Shock: Negligence, Damages, Jury Instructions, Vicarious Liability, Statutes of Limitation, Arbitration, and Other Considerations. 72 A.L.R.7th Art. 4 (2022).

16-114-203. Statute of limitations.

RESEARCH REFERENCES

ALR. Medical Malpractice Claims Involving Instances of Sepsis or Septic

Shock: Negligence, Damages, Jury Instructions, Vicarious Liability, Statutes of

Limitation, Arbitration, and Other Considerations. 72 A.L.R.7th Art. 4 (2022).

CASE NOTES

Actions Barred.

Trial court did not err by dismissing the complaint because the personal representative's original complaint was a nullity since the estates of the mother and baby did not have standing to bring a survival action when the representative had been appointed personal representative. By the time the representative attempted to file an "amended" complaint, the two-year medical negligence statute of limitations had expired. *Epps v. Ouachita Cty. Med. Ctr.*, 2021 Ark. App. 389, 636 S.W.3d 787 (2021).

All three defendants were medical care providers, and the only injury alleged by the representative was a medical injury that resulted in the tragic deaths of the mother and her baby during childbirth. Therefore, all of the claims, including negligence in the dispatch of the ambulance and negligent supervision and retention, were subsumed into a cause of action for

medical malpractice with its two-year statute of limitations. *Epps v. Ouachita Cty. Med. Ctr.*, 2021 Ark. App. 389, 636 S.W.3d 787 (2021).

Doctor's motion to dismiss with prejudice was properly granted as the patient's medical malpractice complaint was barred by the statute of limitations because he failed to obtain service on the doctor within the two-year time frame allowed for medical malpractice actions as the only evidence of service, or the attempted service, was the process server's return-of-service form, which established that he was unable to obtain service, not that the doctor refused service; the doctor denied having received the summons and complaint; and the mailing of the summons and complaint by first-class mail the day following refusal of service did not satisfy the close-proximity requirement of Ark. R. Civ. P. 4(f)(1)(A). *Harvey v. Heim*, 2022 Ark. App. 267 (2022).

16-114-207. Expert witnesses.

RESEARCH REFERENCES

ALR. Medical Malpractice Claims Involving Instances of Sepsis or Septic Shock: Standard of Care, Sufficiency of Evidence of Causation, Expert Testimony

and Evidence, Affidavits of Merit, and Additional Evidentiary and Discovery Matters. 62 A.L.R.7th Art. 2 (2021).

16-114-208. Damage awards — Periodic payment of future damages.

RESEARCH REFERENCES

ALR. Medical Malpractice Claims Involving Instances of Sepsis or Septic Shock: Negligence, Damages, Jury In-

structions, Vicarious Liability, Statutes of Limitation, Arbitration, and Other Considerations. 72 A.L.R.7th Art. 4 (2022).

16-114-212. Tolling of the statute of limitations.

RESEARCH REFERENCES

ALR. Medical Malpractice Claims Involving Instances of Sepsis or Septic Shock: Negligence, Damages, Jury In-

structions, Vicarious Liability, Statutes of Limitation, Arbitration, and Other Considerations. 72 A.L.R.7th Art. 4 (2022).

16-114-213. Sole remedy.

CASE NOTES

Medical Injury.

All three defendants were medical care providers, and the only injury alleged by the representative was a medical injury that resulted in the tragic deaths of the mother and her baby during childbirth. Therefore, all of the claims, including neg-

ligence in the dispatch of the ambulance and negligent supervision and retention, were subsumed into a cause of action for medical malpractice with its two-year statute of limitations. *Epps v. Ouachita Cty. Med. Ctr.*, 2021 Ark. App. 389, 636 S.W.3d 787 (2021).

CHAPTER 115

MANDAMUS AND PROHIBITION

16-115-102. Jurisdiction.

CASE NOTES

Writ of Mandamus.

Where three defendants were jointly tried and convicted for their participation in a criminal episode, the Division of Correction wrongfully calculated the parole eligibility on their 15-year sentence en-

hancement for committing a felony with a firearm, and the State conceded there was error; therefore, defendants were entitled to mandamus relief under this section and Ark. Const. Amend. 80, § 10. *Perry v. Payne*, 2022 Ark. 112 (2022).

CHAPTER 116

PRODUCTS LIABILITY

SUBCHAPTER 1 — GENERAL PROVISIONS

RESEARCH REFERENCES

ALR. Products Liability and Negligence Claims Arising from Defects in Mobile

Personal Electronics. 64 A.L.R.7th Art. 5 (2021).

16-116-101. Liability of supplier.

RESEARCH REFERENCES

ALR. Products Liability: Necessity and Admissibility of Expert or Opinion Evidence as to Causation of Injury to Users of Asbestos and Tobacco Products. 50 A.L.R.7th Art. 3 (2020).

Products Liability: Necessity and Admissibility of Expert or Opinion Evidence as to Causation of Injury to User of Food Products and Equipment. 52 A.L.R.7th

Art. 4 (2020).

Products Liability: Necessity and Admissibility of Expert or Opinion Evidence as to Causation of Injury to User of Construction Products and Equipment. 53 A.L.R.7th Art. 8 (2020).

Products Liability: Duty of Manufacturer or Seller of Component Part Incorporated in Another Product to Warn of

Dangers. 58 A.L.R.7th Art. 4 (2021).

Liability of Online Marketplace Operator for Defective Product. 60 A.L.R.7th Art. 3 (2021).

Products Liability of Manufacturer of Intrauterine Device (IUD). 63 A.L.R.7th Art. 4 (2021).

Products Liability: Necessity and Admissibility of Expert or Opinion Evidence as to Design and Manufacture of Prescription Drugs. 65 A.L.R.7th Art. 5 (2021).

Products Liability: Necessity and Admissibility of Expert or Opinion Evidence as to Design and Manufacture of Medical

Devices. 67 A.L.R.7th Art. 1 (2022).

Products Liability: Necessity and Admissibility of Expert or Opinion Evidence as to Design and Manufacture of Automobiles and Other Motor Vehicles. 69 A.L.R.7th Art. 2 (2022).

Products Liability: Necessity and Admissibility of Expert or Opinion Evidence as to Design and Manufacture of Household Items. 70 A.L.R.7th Art. 3 (2022).

Products Liability: Necessity and Admissibility of Expert or Opinion Evidence as to Design and Manufacture of Electronic Devices. 72 A.L.R.7th Art. 3 (2022).

CASE NOTES

ANALYSIS

Defect.

Unreasonably Dangerous.

Defect.

Expert established that the condition of the subject tire had changed substantially since the company manufactured it in 1991 and there was no genuine issue of fact as to whether any alleged design defect was a more probable cause of its failure than its advanced age and worn condition; Arkansas did not recognize any post-sale duty to warn and testimony about the absence of a nylon overlay did

not allow reasonable persons to conclude that it was a more probable cause of the tread-belt detachment than the age and worn condition. *Garner v. Goodyear Tire & Rubber Co.*, 2021 Ark. App. 332 (2021).

Unreasonably Dangerous.

Plaintiff, who was injured by a machine that defendant manufactured and sold, did not produce sufficient evidence to support a finding that the digger derrick was unreasonably dangerous under this section since plaintiff and the crew knew the danger of operating the digger derrick's boom without first deploying the outriggers. *Edwards v. Skylift, Inc.*, 39 F.4th 1025 (8th Cir. 2022).

SUBCHAPTER 2 — ARKANSAS PRODUCT LIABILITY ACT OF 1979

RESEARCH REFERENCES

ALR. Products Liability: Necessity and Admissibility of Expert or Opinion Evidence as to Causation of Injury to Users of Asbestos and Tobacco Products. 50 A.L.R.7th Art. 3 (2020).

Products Liability: Necessity and Admissibility of Expert or Opinion Evidence as to Causation of Injury to User of Food Products and Equipment. 52 A.L.R.7th Art. 4 (2020).

Products Liability: Necessity and Admissibility of Expert or Opinion Evidence as to Causation of Injury to User of Construction Products and Equipment. 53 A.L.R.7th Art. 8 (2020).

Products Liability: Duty of Manufacturer or Seller of Component Part Incorporated in Another Product to Warn of

Dangers. 58 A.L.R.7th Art. 4 (2021).

Products Liability of Manufacturer of Intrauterine Device (IUD). 63 A.L.R.7th Art. 4 (2021).

Products Liability: Necessity and Admissibility of Expert or Opinion Evidence as to Design and Manufacture of Prescription Drugs. 65 A.L.R.7th Art. 5 (2021).

Products Liability: Necessity and Admissibility of Expert or Opinion Evidence as to Design and Manufacture of Medical Devices. 67 A.L.R.7th Art. 1 (2022).

Products Liability: Necessity and Admissibility of Expert or Opinion Evidence as to Design and Manufacture of Automobiles and Other Motor Vehicles. 69 A.L.R.7th Art. 2 (2022).

Products Liability: Necessity and Ad-

missibility of Expert or Opinion Evidence as to Design and Manufacture of Household Items. 70 A.L.R.7th Art. 3 (2022).

Products Liability: Necessity and Ad-

missibility of Expert or Opinion Evidence as to Design and Manufacture of Electronic Devices. 72 A.L.R.7th Art. 3 (2022).

16-116-204. Considerations for trier of fact.

RESEARCH REFERENCES

ALR. Products Liability: Necessity and Admissibility of Expert or Opinion Evidence as to Causation of Injury to Users of Asbestos and Tobacco Products. 50 A.L.R.7th Art. 3 (2020).

Products Liability: Necessity and Admissibility of Expert or Opinion Evidence as to Causation of Injury to User of Food Products and Equipment. 52 A.L.R.7th Art. 4 (2020).

Products Liability: Necessity and Admissibility of Expert or Opinion Evidence as to Causation of Injury to User of Construction Products and Equipment. 53 A.L.R.7th Art. 8 (2020).

Products Liability: Duty of Manufacturer or Seller of Component Part Incorporated in Another Product to Warn of Dangers. 58 A.L.R.7th Art. 4 (2021).

Liability of Online Marketplace Operator for Defective Product. 60 A.L.R.7th Art. 3 (2021).

Products Liability of Manufacturer of Intrauterine Device (IUD). 63 A.L.R.7th Art. 4 (2021).

Products Liability and Negligence Claims Arising from Defects in Mobile Personal Electronics. 64 A.L.R.7th Art. 5 (2021).

Products Liability: Necessity and Admissibility of Expert or Opinion Evidence as to Design and Manufacture of Prescription Drugs. 65 A.L.R.7th Art. 5 (2021).

Products Liability: Necessity and Admissibility of Expert or Opinion Evidence as to Design and Manufacture of Medical Devices. 67 A.L.R.7th Art. 1 (2022).

Products Liability: Necessity and Admissibility of Expert or Opinion Evidence as to Design and Manufacture of Automobiles and Other Motor Vehicles. 69 A.L.R.7th Art. 2 (2022).

Products Liability: Necessity and Admissibility of Expert or Opinion Evidence as to Design and Manufacture of Household Items. 70 A.L.R.7th Art. 3 (2022).

Products Liability: Necessity and Admissibility of Expert or Opinion Evidence as to Design and Manufacture of Electronic Devices. 72 A.L.R.7th Art. 3 (2022).

CHAPTER 118

MISCELLANEOUS ACTIONS

16-118-113. Civil cause of action for unauthorized access to property — Definitions.

CASE NOTES

Standing.

District court erred in finding that the animal welfare organizations lacked standing to bring an action seeking an order that would prevent defendants, a slaughterhouse and a pig farm, from bringing a civil suit against the organizations under this section, where the organizations alleged the statute violated

their First Amendment rights. The complaint alleged sufficient facts to establish a plausible claim of injury in fact and jurisdiction as the organizations alleged an intention to investigate defendants' facilities and use the results in their advocacy, the complaint alleged an intention to engage in a course of conduct proscribed by the statute, and the complaint suffi-

ciently alleged a credible threat of enforcement; the injury was fairly traceable to potential legal action by defendants; and a favorable decision would likely redress the injury. *Animal Legal Def. Fund v. Vaught*, 8 F.4th 714 (8th Cir. 2021).

CHAPTER 123
CIVIL RIGHTS

SUBCHAPTER 1 — ARKANSAS CIVIL RIGHTS ACT OF 1993

16-123-101. Title.

CASE NOTES

Immunity. Federal district court properly dismissed plaintiff’s claims under the Arkansas Civil Rights Act, § 16-123-101 et seq., because plaintiff failed to present evidence that the officer’s conduct in arresting plaintiff for disorderly conduct after plaintiff yelled an expletive at him from a moving vehicle was “malicious” under § 19-10-305. *Thurairajah v. City of Fort Smith*, 3 F.4th 1017 (8th Cir. 2021).

16-123-102. Definitions.

RESEARCH REFERENCES

ALR. Definition of “Sex” Under Title VII of Civil Rights Act, 42 U.S.C. §§ 2000e et seq., Concerning Discrimination on Basis of Sexual Orientation, Gender Conformance, or Transgender Status — *Post-Bostock*. 67 A.L.R. Fed. 3d Art. 14 (2022).

16-123-105. Civil rights offenses.

RESEARCH REFERENCES

ALR. Required Drug Testing or Physical Examination of Disabled Applicants or Candidates for Non-Public Employment as Violation of the Americans With Disabilities Act, 42 U.S.C. § 12112(d)(2), (3). 69 A.L.R. Fed. 3d Art. 6 (2022).

16-123-107. Discrimination offenses.

RESEARCH REFERENCES

ALR. Required Drug Testing or Physical Examination of Disabled Applicants or Candidates for Non-Public Employment as Violation of the Americans With Disabilities Act, 42 U.S.C. § 12112(d)(2), (3). 69 A.L.R. Fed. 3d Art. 6 (2022).

CHAPTER 126
SALE OR FURNISHING OF ALCOHOL

16-126-106. Immunity from civil liability for social hosts.

CASE NOTES

ANALYSIS

Action Barred.
Not an Affirmative Defense.

Action Barred.

Plaintiff's complaint alleged that defendant breached a duty of care by providing the decedent alcohol and then leaving him alone in defendant's hot tub, where the decedent died; plaintiff's claim was materially indistinguishable from a claim that a social host was negligent for failing to take reasonable measures to prevent an intoxicated guest from driving a car,

which is barred by this section, and the court reversed the denial of defendant's motion to set aside the default judgment on this claim. *Bates v. Homan*, 2021 Ark. App. 266 (2021).

Not an Affirmative Defense.

Trial court erred in determining that this section, the social host statute, was an affirmative defense; this section was not an affirmative defense that defendant waived when he failed to file a timely answer, as the section negated an element of the plaintiff's prima facie case. *Bates v. Homan*, 2021 Ark. App. 266 (2021).

TITLE 17
PROFESSIONS, OCCUPATIONS, AND
BUSINESSES

SUBTITLE 2. NONMEDICAL PROFESSIONS

CHAPTER 24
COLLECTION AGENCIES

SUBCHAPTER 5 — ARKANSAS FAIR DEBT COLLECTION PRACTICES ACT

17-24-507. Unfair practices.

RESEARCH REFERENCES

ALR. Fees Expressly Authorized by Costs of Collection Clause in Agreement Under Fair Debt Collection Practices Act,

15 U.S.C. § 1692f(1). 53 A.L.R. Fed. 3d Art. 4 (2020).

TITLE 18**PROPERTY*****SUBTITLE 1. GENERAL PROVISIONS*****CHAPTER 4****MISCELLANEOUS OWNERSHIP RIGHTS****SUBCHAPTER 2 — ARKANSAS SLAYER LAW**

18-4-204. Slayer barred from testate or intestate succession and other rights.

RESEARCH REFERENCES

ALR. Inheritance Under Slayer Statute by Person Determined to Be Insane. 69 A.L.R.7th Art. 4 (2022).

18-4-205. Insurance and annuity benefits.

RESEARCH REFERENCES

ALR. Inheritance Under Slayer Statute by Person Determined to Be Insane. 69 A.L.R.7th Art. 4 (2022).

SUBTITLE 2. REAL PROPERTY**CHAPTER 11****REAL PROPERTY INTERESTS GENERALLY****SUBCHAPTER 1 — OWNERSHIP AND POSSESSION**

18-11-106. Adverse possession.

RESEARCH REFERENCES

ALR. Neighborly Accommodation as Defense Against Adverse Possession or Prescriptive Easement. 56 A.L.R.7th Art. 8 (2020).

What Usage of Trees, Other than Logging, Constitutes Sufficient Evidence to Support Adverse Possession Claims. 59 A.L.R.7th Art. 2 (2021).

CASE NOTES

Adverse Possession Not Shown.

Circuit court erred in quieting and confirming title in property in favor of brothers because it clearly erred in finding that a decedent's unknown heirs were placed on notice that the son of the decedent's daughter, the brothers' father, and his heirs claimed the property by adverse possession; the decedent's unknown heirs

had not relinquished their ownership interest in the property, and thus, as cotenants, they were entitled to actual notice of the brothers' adverse claim to the property, and the 1977 case and the 2005 court of appeals opinion did not provide that notice. *Estate of Slaughter v. Trice*, 2021 Ark. 199, 632 S.W.3d 746 (2021).

SUBCHAPTER 3 — RECREATIONAL USES — OWNER'S LIABILITY

18-11-306. Land leased to state or political subdivision — Conservation easement.

RESEARCH REFERENCES

ALR. Construction, Improvements, or Uses Permitted Under Conservation Easement. 71 A.L.R.7th Art. 3 (2022).

CHAPTER 13

HORIZONTAL PROPERTY ACT

18-13-116. Liability for expenses and assessments.

RESEARCH REFERENCES

ALR. State Statute Granting Right of Nonjudicial Foreclosure to Condominium or Homeowner Association. 66 A.L.R.7th Art. 4 (2021).

CHAPTER 15

EMINENT DOMAIN

SUBCHAPTER 1 — GENERAL PROVISIONS

18-15-102. Actions against corporations appropriating private property.

RESEARCH REFERENCES

ALR. Accrual of Inverse Condemnation Claim Against Federal Government Based on Contamination, Dumping, or Cleanup. 50 A.L.R. Fed. 3d Art. 1 (2020).

SUBCHAPTER 3 — MUNICIPAL CORPORATIONS GENERALLY

18-15-301. Municipal corporations — Power to condemn generally — Definitions.

CASE NOTES

Waterworks.

Where the city sought to acquire from the landowners certain temporary rights of entry onto and access to their properties to evaluate them as potential locations for a new water-transmission line, the circuit court committed reversible error in finding that the city was required to proceed pursuant to the delegation of eminent domain authority under § 18-15-601 et seq. (subchapter 6) exclusively, rather than the statutory scheme at § 18-15-301 et seq. (subchapter 3); § 18-15-301 et seq.

provides a delegation to municipalities of the power of eminent domain for waterworks purposes. Moreover, the Arkansas Supreme Court in 2005 specifically recognized the right of municipalities "to exercise the right of eminent domain in operation of waterworks and associated operations . . . granted in subchapters 3, 4, and 6 of title 18, chapter 15 of the Arkansas Code." *City of Fort Smith v. Osborne*, 2022 Ark. App. 46, 640 S.W.3d 697 (2022).

SUBTITLE 4. MORTGAGES AND LIENS

CHAPTER 44

MECHANICS' AND MATERIALMEN'S LIENS

SUBCHAPTER 1 — GENERAL PROVISIONS

18-44-115. Notice to owner by contractor — Definitions.

CASE NOTES

ANALYSIS

Applicability of Amendment.
Noncompliance.

Applicability of Amendment.

In this breach of contract action arising from a 2016 residential construction repair, appellee contractor was not required to give the statutory notice of lien described in the pre-2017 version of this section that was in effect at the time of the contract because the pre-2017 version of this section had a "direct sale" exemption; further, the amendment to this section, set forth in Acts 2017, No. 808, was not applied retroactively. *Dye v. Precision*

Found. Specialties & Flow Rite Drainage Sols., Inc., 2022 Ark. App. 220, 646 S.W.3d 168 (2022).

Noncompliance.

Due to failure to give preconstruction lien notice, a contractor was barred from recovering on its breach of contract and quantum meruit claims; the contractor had contracted with the homeowners to repair the floors in a house in which they lived, and therefore the contractor was a residential contractor subject to provide preconstruction lien notice before commencement of work. *Sluyter v. Wood Guys, LLC*, 2021 Ark. App. 442, 638 S.W.3d 849 (2021).

CHAPTER 49**ENFORCEMENT OF MORTGAGES, DEEDS OF TRUST,
AND VENDORS' LIENS****18-49-101. Limitation of actions.****RESEARCH REFERENCES**

ALR. Actions for Damages for Wrongful Foreclosure — Limitations Periods. 65 A.L.R.7th Art. 6 (2021).

18-49-104. Sale of property under court order and publication of notice of sales.**RESEARCH REFERENCES**

ALR. Actions for Damages for Wrongful Foreclosure — Limitations Periods. 65 A.L.R.7th Art. 6 (2021).

CHAPTER 50**STATUTORY FORECLOSURES****18-50-103. Conditions to exercise of power of sale.****RESEARCH REFERENCES**

ALR. Compliance with Mortgage Statutory Pre-Foreclosure Notice Requirements. 61 A.L.R.7th Art. 3 (2021).

18-50-104. Prerequisites for foreclosure sale — Contents of notice of sale — Persons to receive notice.**RESEARCH REFERENCES**

ALR. Compliance with Mortgage Statutory Pre-Foreclosure Notice Requirements. 61 A.L.R.7th Art. 3 (2021).

Actions for Damages for Wrongful Foreclosure — Limitations Periods. 65 A.L.R.7th Art. 6 (2021).

SUBTITLE 5. CIVIL ACTIONS**CHAPTER 60****MISCELLANEOUS PROCEEDINGS RELATING TO
PROPERTY****SUBCHAPTER 1 — GENERAL PROVISIONS****18-60-102. Injuring, destroying, or carrying away property of another.****RESEARCH REFERENCES**

ALR. Measure of Damages for Wrongful Injuries to Timber. 50 A.L.R.7th Art. 6 (2020).

18-60-103. Liability for damages by fire — Exception.**RESEARCH REFERENCES**

ALR. Measure of Damages for Wrongful Injuries to Timber. 50 A.L.R.7th Art. 6 (2020).

SUBCHAPTER 3 — FORCIBLE ENTRY AND DETAINER — UNLAWFUL DETAINER**18-60-302. Improper entry prohibited.****CASE NOTES****Landlord and Tenant.**

Although a property owner in her motion to modify judgment argued that she was unable to present evidence of damages at the trial because she was barred by this section from entering the home until the tenant vacated the property so that the damage to her property was not discovered until after the judgment was entered, the circuit court did not abuse its

discretion when it denied the motion because the owner conceded that she did not attempt to gain legal entry to the property for inspection pursuant to her claim for damages. As a result of not having inspected the property, she did not present evidence regarding her claim at the trial. *Brown v. Shipley*, 2022 Ark. App. 246, 646 S.W.3d 635 (2022).

18-60-307. Proceedings in court.**CASE NOTES**

Cited: *Brown v. Shipley*, 2022 Ark. App. 246, 646 S.W.3d 635 (2022).

SUBCHAPTER 4 — PARTITION AND SALE OF LAND

18-60-419. Attorney’s fees.

CASE NOTES

Entitlement.

In a partition action, the circuit court’s order that appellant pay the opposing party’s attorney’s fees solely from her portion of the proceeds was reversed; because appellant filed the partition action, her counsel was “the attorney bringing the suit”, and under the plain, unambiguous, and mandatory language of this section was to be granted a reasonable fee. *Xayprasith-Mays v. Wallace*, 2021 Ark. App. 370, 635 S.W.3d 359 (2021).

18-60-420. Sale of land not susceptible to division.

CASE NOTES

Manner of Sale.

In a partition action, the circuit court’s order that the subject properties were to be sold individually but with the condition that any buyer had to buy all of the properties simultaneously was affirmed because this section gave the court the right to set forth the terms and conditions of the sale and the uncontroverted expert testimony of a real estate broker was that the properties would yield the highest profit if sold in that manner. *Xayprasith-Mays v. Wallace*, 2021 Ark. App. 370, 635 S.W.3d 359 (2021).

SUBCHAPTER 5 — QUIETING TITLE GENERALLY

18-60-502. Petition.

CASE NOTES

Parties.

Plaintiffs quiet title action had to be dismissed without prejudice because plaintiffs failed to join all the necessary parties and they failed to comply with the notice requirements in this section and § 18-60-503. *DJS Dev. v. Brawley*, 2022 Ark. App. 199, 645 S.W.3d 34 (2022).

18-60-503. Publication of notice — Cancellation of liens.

CASE NOTES

Compliance.

Plaintiffs quiet title action had to be dismissed because plaintiffs failed to join all the necessary parties and they failed to comply with the notice requirements in § 8-60-502 and this section. *DJS Dev. v. Brawley*, 2022 Ark. App. 199, 645 S.W.3d 34 (2022).

TITLE 19

PUBLIC FINANCE

CHAPTER.

- 3. STATE TREASURY MANAGEMENT.
- 5. REVENUE STABILIZATION LAW.
- 6. REVENUE CLASSIFICATION LAW.

CHAPTER 3

STATE TREASURY MANAGEMENT

SUBCHAPTER.

7. STATE BOARD OF FINANCE.

SUBCHAPTER 7 — STATE BOARD OF FINANCE

SECTION.

19-3-701. State Board of Finance — Creation — Members.

Effective Dates. Acts 2022, No. 114, § 6: Mar. 1, 2022. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the State and Public School Life and Health Insurance Program is inadequate to provide sustainable affordable health benefits for public school employees and state employees; that an urgent need exists to address the state's funding and administration of benefits for public school employees and state employees in order for the program to remain viable and to avoid severe financial hardship to plan participants; and that this act is immediately necessary to provide afford-

able health benefit options in a timely manner to the state's public school employees participating in the program and state employees participating in the program. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

19-3-701. State Board of Finance — Creation — Members.

- (a) The State Board of Finance is created.
- (b) The board shall be composed of the following members:
 - (1) The Governor;
 - (2) The Treasurer of State;
 - (3) The Auditor of State;
 - (4) The Bank Commissioner;
 - (5) The Secretary of the Department of Finance and Administration;
 - (6) The Securities Commissioner;
 - (7) One (1) person with knowledge and experience in commercial banking;
 - (8) One (1) person who:
 - (A) Holds or has held a Series 7 licensure as a general securities representative; and
 - (B) Has at least five (5) years of experience as a general securities representative;
 - (9) One (1) certified public accountant who:
 - (A) Is licensed in Arkansas; and

(B) Has at least five (5) years of experience as a certified public accountant;

(10) One (1) member of the general public; and

(11)(A) The Insurance Commissioner.

(B) The Insurance Commissioner shall be a voting member only for the purpose of voting on health benefit plans.

(c) A board member listed in subdivisions (b)(7)-(10) of this section:

(1) Shall serve a four-year term and may be reappointed, except that the board member shall serve an initial term of either one (1) year, two (2) years, three (3) years, or four (4) years as determined by lot in order to establish staggered terms in which the term of one (1) of the four (4) board members expires each year;

(2) Shall be paid a stipend of one hundred dollars (\$100) from funds appropriated to the Treasurer of State for participation in each board meeting;

(3) Shall not have a direct financial interest in a transaction between an investment depository or bank depository and the:

(A) Board; or

(B) Treasurer of State;

(4) Shall not be related within the second degree of consanguinity or affinity to a constitutional officer or a member of the General Assembly;

(5) Shall abstain from voting on an issue that affects the board member or the procedures, profits, or funding of a business or organization of which the board member is a member; and

(6) May be removed for cause by a majority vote of the board.

(d)(1) A member listed in subdivisions (b)(7) and (8) of this section shall be appointed and may be reappointed by the President Pro Tempore of the Senate.

(2) A member listed in subdivisions (b)(9) and (10) of this section shall be appointed and may be reappointed by the Speaker of the House of Representatives.

(e) The Governor shall be Chair of the State Board of Finance, and the Treasurer of State shall be the secretary, executive officer, and disbursing agent of the board.

History. Acts 2013, No. 1088, § 1; **Amendments.** The 2022 amendment 2019, No. 910, § 3447; 2022, No. 114, § 2. added (b)(11).

CHAPTER 5

REVENUE STABILIZATION LAW

SUBCHAPTER.

2. FUNDS AND ACCOUNTS GENERALLY.

4. DISTRIBUTION OF GENERAL REVENUES.

9. TRUST FUNDS.

SUBCHAPTER 2 — FUNDS AND ACCOUNTS GENERALLY

SECTION.

19-5-205. Constitutional Officers Fund
and State Central Services
Fund.

Effective Dates. Acts 2022, No. 206,
§ 16; July 1, 2022.

19-5-205. Constitutional Officers Fund and State Central Services Fund.

(a) The elected constitutional officers and their departments of government as established by the Arkansas Constitution and certain state departments and employees of state departments are known and recognized as performing and rendering, either individually or collectively, services to every other state agency. The General Assembly declares that the services rendered are embraced under or by one (1) or more of the items or agencies as follows:

(1) Services rendered by the legislative, judicial, and executive departments of the state as recognized by the Arkansas Constitution;

(2) Services rendered by the Chief Fiscal Officer of the State for management of the state's resources relating to general fiscal affairs, administering the budget, accounting, purchasing, personnel, and other applicable fiscal laws; and

(3) Those agencies supported from the State Central Services Fund, which collect the general revenue and special revenues as defined in the Revenue Classification Law, § 19-6-101 et seq., or such other laws as may be enacted by the General Assembly.

(b)(1) Those departments and activities of the state which perform the services as set out in subdivision (a)(1) of this section are declared to be the following:

(A) The General Assembly, including State Capitol renovation of the General Assembly quarters, Senate and House of Representatives legislative session staff, interim expenses incurred by members of the Senate and House of Representatives, and the appropriations contained in the general appropriation bill made for services of the General Assembly;

(B) The Governor;

(C) The Lieutenant Governor;

(D) The Secretary of State;

(E) The Attorney General;

(F) The Treasurer of State;

(G) The Commissioner of State Lands;

(H) The Auditor of State;

- (I) The Supreme Court;
- (J) The Court of Appeals; and
- (K) The circuit courts and prosecuting attorneys.

(2) Those agencies and activities of the state which perform the services as set out in subdivisions (a)(2) and (3) of this section are declared to be the following:

- (A) Senate and House of Representatives interim staff;
- (B) The Bureau of Legislative Research, and interim committee and interim committee study expenses of the Legislative Council;
- (C) Arkansas Legislative Audit;
- (D) Grants and contributions for the Commission on Interstate Cooperation [abolished];
- (E) The Secretary of State;
- (F) Office of Administrative Services of the Department of Finance and Administration and Revenue Division of the Department of Finance and Administration;
- (G) The Administrative Office of the Courts;
- (H) The Office of the Prosecutor Coordinator;
- (I) The Arkansas Governor's Mansion Commission;
- (J) The Arkansas State Claims Commission; and
- (K) Other activities supporting the legislative, executive, and judicial departments.

(c)(1)(A) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "Constitutional Officers Fund", there to be used for the maintenance, operation, and improvements of those departments and activities as set out in subdivision (b)(1) of this section unless specific and separate funds are otherwise provided therefor.

(B) The Constitutional Officers Fund shall consist of:

- (i) One-third ($\frac{1}{3}$) of the amount produced from the three percent (3%) deduction from the net general revenue deposited into the State Treasury;
- (ii) One-third ($\frac{1}{3}$) of the amount produced from the three percent (3%) deduction from the net special revenues collected and deposited into the State Treasury by the agencies set out in subsection (b) of this section; and
- (iii) One-third ($\frac{1}{3}$) of the amount produced from the one and one-half percent (1.5%) deduction from the net special revenues collected and deposited into the State Treasury by any other state agency, department, board, commission, or institution.

(C)(i) Any balance which remains in the Constitutional Officers Fund at the end of a fiscal year which exceeds seven percent (7%) of the anticipated obligations from the Constitutional Officers Fund for the fiscal year just ended or which is estimated to be available for the fiscal year may be transferred from time to time to the State Central Services Fund for use in the next fiscal year.

(ii) If the funds transferred to the State Central Services Fund are based on an estimated balance which is less than the actual balance

on June 30, the difference shall be transferred to the State Central Services Fund on or before August 1.

(iii) If the funds transferred to the State Central Services Fund are based on an estimated balance which is higher than the actual balance on June 30, the difference shall be transferred from the State Central Services Fund to the Constitutional Officers Fund on or before August 1.

(2) The Constitutional Officers Fund shall also be used to allow the payment of claims for judges due to overpayments into the Arkansas Judicial Retirement System prior to the enactment of §§ 24-6-204 and 24-8-201 — 24-8-211 by transfer to the Judges Retirement Fund in such amounts as may be appropriated by the General Assembly.

(d)(1) Facts before the General Assembly drawn from statistical computations, comparisons, and related data, taken over a period of many years in the past, are conclusive of the proposition that the cost of the services rendered by the agencies set out in subsection (b) of this section have amounted to not less than three percent (3%) of the total general revenues and special revenues as defined in the Revenue Classification Law, § 19-6-101 et seq.

(2) It is therefore declared to be the policy of the State of Arkansas that every agency supported in whole or in part from the general revenues or special revenues deposited into the State Treasury shall contribute to the support of the services rendered by the agencies set out in subsection (b) of this section.

(3) The purposes for which the taxes, licenses, or fees and other income defined to be general revenues or special revenues are raised and collected shall be deemed to include the services as defined in this section.

(e)(1)(A) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "State Central Services Fund", there to be used for the maintenance, operation, and improvements of those agencies and activities as set out in subdivision (b)(2) of this section unless specific and separate funds are otherwise provided therefor.

(B) The State Central Services Fund shall consist of:

(i) Those special revenues as specified in § 19-6-301(9), (11), (19), (21), (37), (75), (76), (77), (78), (79), (82), (83), (84), (85), (86), (87), (88), (89), (91), (96), (116), (118), (120), (124), (149), (188), (231), (244), (246), (247), (266), and (267) and eight percent (8%) of those special revenues as set out in § 19-6-301(20) of the Revenue Classification Law, § 19-6-101 et seq.;

(ii) The amount produced from the deduction from the net general revenues deposited into the State Treasury;

(iii) The amount produced from the deduction from the net special revenues collected and deposited into the State Treasury by the agencies set out in subsection (b) of this section;

(iv) The amount produced from the deduction from the net special revenues collected and deposited into the State Treasury by any other state agency, department, board, commission, or institution;

(v) All earnings and income collected by any of those agencies set out in subsection (b) of this section;

(vi) Funds received from federal funds on account of indirect cost reimbursement collected under a statewide indirect cost allocation plan and paid to any of the agencies set out in subsection (b) of this section;

(vii) Any other funds received from the United States Government granted specifically to the agencies as set out in subsection (b) of this section, unless otherwise required by the grantor federal agency;

(viii) Interest earned on Social Security trust funds which are remitted to the Arkansas Public Employees' Retirement System and held in banks until transmitted to the Social Security Administration;

(ix) Reimbursements by transfer from the Ad Valorem Tax Fund on account of expenditures made to Arkansas Legislative Audit;

(x) Such general revenues as may be provided by the General Assembly;

(xi) One and one-half percent (1.5%) of those cash funds of those state agencies as defined in § 19-5-206;

(xii) Such fund balances as may exist on June 30, 1995, in the Public Defender Fund [repealed] and all such funds as may accrue to and be transferred from the Public Defender Fund [repealed] by the Treasurer of State on the last day of each month;

(xiii) Moneys transferred or deposited from the State Administration of Justice Fund for the benefit of the Arkansas Public Defender Commission;

(xiv) Public defender attorney's fees to be used solely to defray costs for the Arkansas Public Defender Commission as set out in § 5-4-303(g)(2)(A);

(xv) Public defender user fees to be used to defray the costs of the public defender system, § 16-87-213;

(xvi) That portion of nonrefundable fees charged by bail bond companies for the Arkansas Public Defender Commission, § 17-19-301(e);

(xvii) The first one hundred thousand dollars (\$100,000) collected in taxes and penalties under § 26-26-1614 and deposited as nonrevenue receipts during each fiscal year for use by the Revenue Division of the Department of Finance and Administration, § 26-26-1616; and

(xviii) Revenues from the real property transfer tax distributed under § 26-60-112(b)(2)(B)(i).

(2) If required to help meet the commitments of the State Central Services Fund and if funds are determined to be available, the Chief Fiscal Officer of the State may transfer a sum not to exceed four million dollars (\$4,000,000) during any fiscal year from the Budget Stabilization Trust Fund to the State Central Services Fund.

(3)(A) After all other deductions and transfers from other sources authorized by law have been made available to the State Central Services Fund, the Chief Fiscal Officer of the State shall transfer

such additional amounts as may be required from the General Revenue Fund Account to the State Central Services Fund to fully finance the expenditures and obligations from the appropriations set out in this section.

(B)(i) The amount of the transfer shall be determined by subtracting the total of all estimated expenditures from the State Central Services Fund from the total resources available to the State Central Services Fund without a transfer of general revenue.

(ii) Then the result shall be multiplied by the proportion that the estimated expenditures for the budgets as set out in subdivision (e)(3)(C) of this section bears to the total of all the estimated expenditures from the State Central Services Fund.

(iii) The product shall be the amount of general revenue required to meet the expenditures and commitments of the agencies and budget set out in subdivision (e)(3)(C) of this section.

(C) The appropriations to which this subdivision (e)(3) applies are determined to be the:

- (i) House of Representatives;
- (ii) Senate;
- (iii) Arkansas Legislative Audit;
- (iv) Bureau of Legislative Research;
- (v) Bureau of Legislative Research — Disbursing Officer;
- (vi) Court of Appeals;
- (vii) Administrative Office of the Courts — Operations;
- (viii) Supreme Court;
- (ix) Governor;
- (x) Lieutenant Governor;
- (xi) Attorney General;
- (xii) Auditor of State — Operations;
- (xiii) Commissioner of State Lands;
- (xiv) Secretary of State;
- (xv) Treasurer of State;
- (xvi) Department of Finance and Administration — Division of Administrative Services:
 - (a) Director's Office;
 - (b) Director's Office — Office of Economic Analysis and Tax Research;
 - (c) Office of Accounting;
 - (d) Office of Budget;
 - (e) Office of Personnel Management; and
 - (f) Office of Administrative Services — Office of Information Services; and
- (xvii) Department of Finance and Administration — Revenue Division.

(D) The Chief Fiscal Officer of the State shall notify the disbursing officers of the appropriations from the State Central Services Fund not enumerated in subdivision (e)(3)(C) of this section of the amount of their portion of any reduction required from their authorized

appropriations in order to maintain the State Central Services Fund with a projected positive balance.

(E) In no event shall any funds or appropriations for that particular disbursing agency enumerated in subdivision (e)(3)(C) of this section be affected if a deficit occurs in other State Central Services Fund appropriations or funds not enumerated in subdivision (e)(3)(C) of this section for that particular disbursing agency.

History. Acts 1973, No. 750, § 5; 1979, No. 1013, § 1; 1983, No. 392, § 2; 1983, No. 801, § 3; 1985, No. 888, §§ 1, 2; 1985 (1st Ex. Sess.), No. 3, § 1; A.S.A. 1947, §§ 13-511, 13-511.1; Acts 1987, No. 945, § 3; 1987 (1st Ex. Sess.), No. 24, § 2; 1989, No. 629, § 1; 1991, No. 1135, § 1; 1995, No. 1021, § 1; 1995, No. 1163, §§ 1, 2; 1997, No. 1248, §§ 1, 2; 1997, No. 1355, § 15; 1999, No. 904, § 16; 1999, No. 1463, § 1; 2001, No. 1646, § 1; 2003, No. 1022, § 3; 2003 (1st Ex. Sess.), No. 55, §§ 1, 26; 2005, No. 196, § 9; 2005, No. 2282, §§ 1, 2; 2005, No. 2316, §§ 1, 2; 2007, No. 1032,

§ 1; 2007, No. 1201, § 1; 2010, No. 262, § 1; 2010, No. 296, § 1; 2011, No. 1136, § 1; 2013, No. 1516, § 1; 2013, No. 1517, § 1; 2015, No. 1144, § 2; 2015, No. 1145, § 2; 2019, No. 733, § 3; 2022, No. 206, § 9.

Amendments. The 2019 amendment inserted "(263), and (264)" [now "(266), and (267)"] in (e)(1)(B)(i).

The 2022 amendment added (xviii) in (e)(1)(B).

Effective Dates. Acts 2022, No. 206, § 16: July 1, 2022.

SUBCHAPTER 4 — DISTRIBUTION OF GENERAL REVENUES

SECTION.

- 19-5-401. Allocations for Fiscal Year 2022-2023 and thereafter.
19-5-402. Maximum allocations of revenues for Fiscal Year 2022-2023 and thereafter.

SECTION.

- 19-5-406. Transfer of remaining revenues.

Effective Dates. Identical Acts 2021 (2nd Ex. Sess.), Nos. 1 and 2, § 14: Dec. 9, 2021. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act would create significant changes to the state's income tax laws; that this act would create significant changes to the fiscal policy of the state; that taxpayers and employers plan to meet their obligations on a calendar-year basis; and that this act is immediately necessary to ensure the financial stability of the state, to allow taxpayers and employers time both to plan for and to implement the changes in law created by this act, and to ensure that the Department of Finance and Ad-

ministration has sufficient time to update its forms and software and train its personnel in accordance with this act. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Identical Acts 2022, Nos. 225 and 226, § 10: July 1, 2022, §§ 1-3, 5, 6, 8, 9.

19-5-401. Allocations for Fiscal Year 2022-2023 and thereafter.

Commencing with the fiscal year beginning July 1, 2022, and each fiscal year thereafter, the Treasurer of State shall transfer all remaining general revenues available for distribution on the last day of business in July 2022, and on the last day of business in each calendar month thereafter during the fiscal year to the various funds and fund accounts participating in general revenues in the proportions of the maximum allocation as the individual allocation to the fund or fund account bears to the total of the maximum allocation as provided in § 19-5-402(a) and (b).

History. Acts 1973, No. 750, § 11; 1974 (1st Ex. Sess.), No. 90, § 1; 1975, No. 868, § 15; 1977, No. 955, § 1; 1977 (1st Ex. Sess.), No. 7, § 1; 1979, No. 1115, § 1; 1981, No. 937, § 1; 1983, No. 801, § 12; 1983 (1st Ex. Sess.), No. 119, § 1; 1985, No. 888, § 25; A.S.A. 1947, § 13-515; Acts 1987, No. 928, § 15; 1989, No. 629, § 14; 1991, No. 1135, § 12; 1993, No. 1073, § 30; 1995, No. 1163, § 31; 1997, No. 1248, § 28; 1999, No. 1463, § 30; 2001, No. 1646, § 29; 2003 (1st Ex. Sess.), No. 55, § 39; 2005, No. 2282, § 16; 2005, No. 2316, § 16; 2007, No. 1032, § 34; 2007, No. 1201, § 34; 2009, No. 1440, § 7; 2009, No. 1441, § 7; 2010, No. 262, § 12; 2010, No. 296, § 12; 2011, No. 1095, § 16; 2011, No. 1115, § 16; 2012, No. 271, § 6; 2012, No. 287, § 6; 2013, No. 1516, § 3; 2013, No. 1517, § 3; 2014, No. 290, § 9; 2014, No. 299, § 9; 2015, No. 1144, § 9; 2015, No. 1145, § 9; 2016, No. 242, § 3; 2016, No. 270, § 3; 2017, No. 1083, § 22; 2017, No. 1127, § 22; 2018, No. 259, § 3; 2018, No. 260, § 3; 2019, No. 998, § 8; 2019, No. 1024, § 8; 2020, No. 186, § 4; 2020, No. 187, § 4; 2021, No. 1011, § 3; 2021, No. 1099, § 3; 2022, No. 225, § 5; 2022, No. 226, § 5.

A.C.R.C. Notes. Identical Acts 2017, Nos. 1083 and 1127, § 1, provided: "The purpose of this act is to amend the Revenue Stabilization Law."

Identical Acts 2017, Nos. 1083 and 1127, § 24, provided: "DUPLICATE ACTS. If HB1548 and SB295 of the 2017 Regular Session of the 91st General Assembly are both enacted and adopted by the 91st General Assembly in identical form, then the last Act passed or latest expression shall supersede the other."

Identical Acts 2018, Nos. 259 and 260, § 1, provided: "The purpose of this act is to amend the Revenue Stabilization Law

and to create funds, to repeal funds, and to make transfers to and from funds and fund accounts."

Identical Acts 2018, Nos. 259 and 260, § 9, provided: "DUPLICATE ACTS. If HB1137 and SB122 of the 2018 Fiscal Session of the 91st General Assembly are both enacted and adopted by the 91st General Assembly in identical form, then the last Act passed or latest expression shall supersede the other."

Identical Acts 2019, Nos. 998 and 1024, § 1, provided: "The purpose of this act is to amend the Revenue Stabilization Law, § 19-5-101 et seq."

Identical Acts 2019, Nos. 998 and 1024, § 10, provided: "DUPLICATE ACTS. If HB1876 and SB597 of the 2019 Regular Session of the 92nd General Assembly are both enacted and adopted by the 92nd General Assembly in identical form, then the last Act passed or latest expression shall supersede the other."

Identical Acts 2020, Nos. 186 and 187, § 1, provided: "The purpose of this act is to amend the Revenue Stabilization Law and to create funds, to repeal funds, and to make transfers to and from funds and fund accounts."

Identical Acts 2020, Nos. 186 and 187, § 6, provided: "DUPLICATE ACTS. If HB1096 and SB83 of the 2020 Fiscal Session of the 92nd General Assembly are both enacted and adopted by the 92nd General Assembly in identical form, then the last Act passed or latest expression shall supersede the other."

Identical Acts 2021, Nos. 1011 and 1099, § 1, provided: "The purpose of this act is to amend the Revenue Stabilization Law, § 19-5-101 et seq."

Identical Acts 2021, Nos. 1011 and 1099, § 5, provided: "DUPLICATE ACTS. If HB1949 and SB702 of the 2021 Regular

Session of the 93rd General Assembly are both enacted and adopted by the 93rd General Assembly in identical form, then the last Act passed or latest expression shall supersede the other."

Identical Acts 2022, Nos. 225 and 226, § 1, provided: "The purpose of this act is to amend the Revenue Stabilization Law, § 19-5-101 et seq., create funds, and make transfers to and from funds and fund accounts."

Identical Acts 2022, Nos. 225 and 226, § 9, provided: "DUPLICATE ACTS. If HB1117 and SB101 of the 2022 Fiscal Session of the 93rd General Assembly are both enacted and adopted by the 93rd General Assembly in identical form, then the last Act passed or latest expression shall supersede the other."

Amendments. The 2017 amendment by identical acts Nos. 1083 and 1127 substituted "2017-2018" for "2016-2017" in the section heading; and, in the section, substituted "July 1, 2017" for "July 1, 2016", and "July 2017" for "July 2016".

The 2018 amendment by identical acts Nos. 259 and 260 substituted "2018-2019" for "2017-2018" in the section heading; and, in the section, substituted "July 1, 2018" for "July 1, 2017" and "July 2018" for "July 2017".

The 2019 amendment by identical acts Nos. 998 and 1024 substituted "2019-2020" for "2018-2019" in the section heading; substituted "July 1, 2019" for "July 1, 2018"; substituted "July 2019" for "July 2018"; and substituted "§ 19-5-402(a)-(c)" for "§ 19-5-402(a) and (b)".

The 2020 amendment by identical acts Nos. 186 and 187 substituted "2020-2021" for "2019-2020" in the section heading; substituted "July 1, 2020" for "July 1, 2019"; substituted "July 2020" for "July 2019"; and substituted "§ 19-5-402(a)-(e)" for "§ 19-5-402(a)-(c)".

The 2021 amendment by identical acts Nos. 1011 and 1099 substituted "2021-2022" for "2020-2021" in the section heading; substituted "July 1, 2021" for "July 1, 2020"; substituted "July 2021" for "July 2020"; and substituted "§ 19-5-402(a)-(d)" for "§ 19-5-402(a)-(e)".

The 2022 amendment by identical acts Nos. 225 and 226 substituted "2022-2023" for "2021-2022" in the section heading; substituted "July 1, 2022" for "July 1, 2021"; substituted "July 2022" for "July 2021"; and substituted "§ 19-5-402(a) and (b)" for "§ 19-5-402(a)-(d)".

Effective Dates. Identical Acts 2022, Nos. 225 and 226, § 10: July 1, 2022, §§ 1-3, 5, 6, 8, 9.

19-5-402. Maximum allocations of revenues for Fiscal Year 2022-2023 and thereafter.

(a) **ALLOCATION A.** The Treasurer of State shall first make monthly allocations in the proportions set out in this subsection to the funds and fund accounts listed below until there has been transferred a total of five billion six hundred eighty-five million seven hundred forty-three thousand two hundred eighty-five dollars (\$5,685,743,285) or so much thereof as may become available; provided, that the Treasurer of State shall make such monthly allocations in accordance with each fund or fund account's proportionate part of the total of all such allocations set forth in this subsection:

Name of Fund or Fund Account	Maximum Allocation
PUBLIC SCHOOL FUND	
(1) Division of Elementary and Secondary Education Public School Fund Account	\$2,190,035,354
(2) State Library Public School Fund Account	\$ 5,359,823
(3) Division of Career and Technical Education Public School Fund Account	\$ 22,730,645

Name of Fund or Fund Account	Maximum Allocation
(4) Division of Career and Technical Education Public School Fund Account - Adult Education	\$ 7,637,976

EDUCATION FUND

(1) Division of Elementary and Secondary Education Fund Account	\$ 16,379,120
(2) Division of Elementary and Secondary Education Fund Account - Succeed Scholarship	\$ 3,300,000
(3) Educational Facilities Partnership Fund Account	\$ 41,828,951
(4) Division of Public School Academic Facilities and Transportation Fund Account	\$ 2,531,297
(5) Educational Television Fund Account	\$ 5,393,951
(6) School for the Blind Fund Account	\$ 7,136,122
(7) School for the Deaf Fund Account	\$ 10,372,183
(8) State Library Fund Account	\$ 3,515,890
(9) Division of Career and Technical Education Fund Account	\$ 9,500
(10) Rehabilitation Services Fund Account	\$ 11,641,802
Technical Institutes:	
(11) Northwest Technical Institute Fund Account	\$ 3,066,434

DEPARTMENT OF HUMAN SERVICES FUND

(1) Department of Human Services Administration Fund Account	\$ 23,778,727
(2) Children and Family Services Fund Account	\$ 119,997,824
(3) Child Care and Early Childhood Education Fund Account	\$ 2,173,405
(4) Youth Services Fund Account	\$ 48,903,006
(5) Developmental Disabilities Services Fund Account	\$ 65,306,674
(6) Medical Services Fund Account	\$ 2,333,276
(7) Department of Human Services Grants Fund Account	\$1,313,215,466
(8) Behavioral Health Services Fund Account	\$ 95,232,260
(9) Provider Services and Quality Assurance Fund Account	\$ 5,321,846
(10) County Operations Fund Account	\$ 47,470,649

STATE GENERAL GOVERNMENT FUND

(1) Division of Arkansas Heritage Fund Account	\$ 7,327,148
(2) Department of Agriculture Fund Account	\$ 17,406,921

Name of Fund or Fund Account	Maximum Allocation
(3) Department of Labor and Licensing Fund Account	\$ 3,127,575
(4) Division of Higher Education Fund Account	\$ 11,066,536
(5) Higher Education Grants Fund Account	\$ 38,018,752
(6) Arkansas Economic Development Commission Fund Account	\$ 20,355,029
(7) Division of Correction Inmate Care and Custody Fund Account	\$ 369,577,554
(8) Division of Community Correction Fund Account	\$ 94,397,166
(9) Department of the Military Fund Account	\$ 7,069,321
(10) Parks and Tourism Fund Account	\$ 20,630,801
(11) Division of Environmental Quality Fund Account	\$ 3,848,855
(12) Miscellaneous Agencies Fund Account	\$ 73,001,326
COUNTY AID FUND	\$ 20,357,186
COUNTY JAIL REIMBURSEMENT FUND	\$ 24,797,647
CRIME INFORMATION SYSTEM FUND	\$ 2,143,658
CHILD SUPPORT ENFORCEMENT FUND	\$ 12,631,574
PUBLIC HEALTH FUND	\$ 80,496,222
PERFORMANCE FUND	\$ -
MOTOR VEHICLE ACQUISITION REVOLVING FUND	\$ -
MUNICIPAL AID FUND	\$ 27,903,494
DIVISION OF ARKANSAS STATE POLICE FUND	\$ 74,001,474
DIVISION OF WORKFORCE SERVICES FUND-TANF	\$ 3,685,419
DIVISION OF WORKFORCE SERVICES FUND-ADULT EDUCATION	\$ 918,996
STATE SERVICES FOR THE BLIND FUND	\$ 1,900,926
SKILLS DEVELOPMENT FUND	\$ 3,586,921
INSTITUTIONS OF HIGHER EDUCATION	
(1) ARKANSAS STATE UNIVERSITY FUND	\$ 56,712,052
(2) ARKANSAS TECH UNIVERSITY FUND	\$ 31,718,000
(3) HENDERSON STATE UNIVERSITY FUND	\$ 18,079,415
(4) SOUTHERN ARKANSAS UNIVERSITY FUND	\$ 15,437,518
(5) UNIVERSITY OF ARKANSAS FUND	\$ 116,687,604
(6) UNIVERSITY OF ARKANSAS FUND-UA SYSTEM	\$ 3,305,500
(7) UNIVERSITY OF ARKANSAS FUND-ARCHEOLOGICAL SURVEY	\$ 2,250,810

Name of Fund or Fund Account	Maximum Allocation
(8) UNIVERSITY OF ARKANSAS FUND-DIVISION OF AGRICULTURE	\$ 62,510,131
(9) UNIVERSITY OF ARKANSAS FUND-CLINTON SCHOOL	\$ 2,220,051
(10) UNIVERSITY OF ARKANSAS FUND-CRIMINAL JUSTICE INSTITUTE	\$ 2,145,702
(11) SCHOOL FOR MATH, SCIENCES, AND ARTS FUND	\$ 1,076,396
(12) UNIVERSITY OF ARKANSAS AT FORT SMITH FUND	\$ 19,329,841
(13) UNIVERSITY OF ARKANSAS AT LITTLE ROCK FUND	\$ 57,494,393
(14) UNIVERSITY OF ARKANSAS MEDICAL CENTER FUND	\$ 83,612,237
(15) UNIVERSITY OF ARKANSAS MEDICAL CENTER FUND - CHILD ABUSE/RAPE/DOMESTIC VIOLENCE	\$ 350,000
(16) UNIVERSITY OF ARKANSAS MEDICAL CENTER FUND - PEDIATRICS/PSYCHIATRIC RESEARCH	\$ 1,885,845
(17) UNIVERSITY OF ARKANSAS MEDICAL CENTER FUND - INDIGENT CARE	\$ 5,166,423
(18) UNIVERSITY OF ARKANSAS AT MONTICELLO FUND	\$ 15,174,764
(19) UNIVERSITY OF ARKANSAS AT PINE BLUFF FUND	\$ 24,901,490
(20) UNIVERSITY OF CENTRAL ARKANSAS FUND	\$ 52,490,524
(21) ARKANSAS NORTHEASTERN COLLEGE FUND	\$ 8,226,185
(22) ARKANSAS STATE UNIVERSITY - BEEBE FUND	\$ 11,163,297
(23) ARKANSAS STATE UNIVERSITY - MOUNTAIN HOME FUND	\$ 3,499,574
(24) ARKANSAS STATE UNIVERSITY - NEWPORT FUND	\$ 5,925,957
(25) COSSATOT COMMUNITY COLLEGE OF THE UNIVERSITY OF ARKANSAS FUND	\$ 3,302,237
(26) EAST ARKANSAS COMMUNITY COLLEGE FUND	\$ 7,832,089
(27) ARKANSAS STATE UNIVERSITY MID-SOUTH FUND	\$ 3,823,640
(28) ARKANSAS STATE UNIVERSITY MID-SOUTH FUND - ADTEC	\$ 1,449,300

Name of Fund or Fund Account	Maximum Allocation
(29) NATIONAL PARK COLLEGE FUND	\$ 8,380,599
(30) NORTH ARKANSAS COLLEGE FUND	\$ 7,416,724
(31) NORTHWEST ARKANSAS COMMUNITY COLLEGE FUND	\$ 10,385,422
(32) PHILLIPS COMMUNITY COLLEGE OF THE UNIVERSITY OF ARKANSAS FUND	\$ 8,539,259
(33) UNIVERSITY OF ARKANSAS COMMUNITY COLLEGE AT RICH MOUNTAIN FUND	\$ 3,064,504
(34) SAU-TECH FUND	\$ 5,292,367
(35) SAU-TECH FUND-ENVIRONMENTAL TRAINING ACADEMY	\$ 356,284
(36) SAU-TECH FUND-FIRE TRAINING ACADEMY	\$ 1,596,896
(37) SOUTH ARKANSAS COMMUNITY COLLEGE FUND	\$ 5,731,301
(38) UNIVERSITY OF ARKANSAS COMMUNITY COLLEGE AT BATESVILLE FUND	\$ 3,923,626
(39) UNIVERSITY OF ARKANSAS COMMUNITY COLLEGE AT HOPE-TEXARKANA FUND	\$ 4,445,127
(40) UNIVERSITY OF ARKANSAS COMMUNITY COLLEGE AT MORRILTON FUND	\$ 4,815,231
(41) BLACK RIVER TECHNICAL COLLEGE FUND	\$ 5,663,516
(42) ARKANSAS STATE UNIVERSITY THREE RIVERS FUND	\$ 3,297,333
(43) OZARKA COLLEGE FUND	\$ 2,896,343
(44) UNIVERSITY OF ARKANSAS - PULASKI TECHNICAL COLLEGE FUND	\$ 14,023,209
(45) SOUTHEAST ARKANSAS COLLEGE FUND	\$ 5,221,887

(b) ALLOCATION B. Then after making the maximum annual allocations provided for in subsection (a) of this section, the Treasurer of State shall then make allocations from the remaining general revenues available for distribution, as set forth in this subsection, to the funds and fund accounts listed below until there has been transferred a total of three hundred thirty-eight million five hundred eighty-six thousand one hundred ninety dollars (\$338,586,190) or so much thereof that may become available; provided, that the Treasurer of State shall make such monthly allocations in accordance with each fund or fund account's proportionate part of the total of all such allocations set forth in this subsection:

Name of Fund or Fund Account	Maximum Allocation
PUBLIC SCHOOL FUND	

Name of Fund or Fund Account	Maximum Allocation
(1) Division of Elementary and Secondary Education Public School Fund Account	\$100,976,171
(2) State Library Public School Fund Account	\$ 282,096
(3) Division of Career and Technical Education Public School Fund Account	\$ -
(4) Division of Career and Technical Education Public School Fund Account - Adult Education	\$ 500,000

EDUCATION FUND

(1) Division of Elementary and Secondary Education Fund Account	\$ 817,321
(2) Division of Elementary and Secondary Education Fund Account - Succeed Scholarship	\$ -
(3) Educational Facilities Partnership Fund Account	\$ 28,500,000
(4) Division of Public School Academic Facilities and Transportation Fund Account	\$ 131,198
(5) Educational Television Fund Account	\$ 78,930
(6) School for the Blind Fund Account	\$ 585,430
(7) School for the Deaf Fund Account	\$ 720,136
(8) State Library Fund Account	\$ 180,840
(9) Division of Career and Technical Education Fund Account	\$ -
(10) Rehabilitation Services Fund Account	\$ -
Technical Institutes:	
(11) Northwest Technical Institute Fund Account	\$ -

DEPARTMENT OF HUMAN SERVICES FUND

(1) Department of Human Services Administration Fund Account	\$ -
(2) Children and Family Services Fund Account	\$ 11,000,000
(3) Child Care and Early Childhood Education Fund Account	\$ 400,000
(4) Youth Services Fund Account	\$ -
(5) Developmental Disabilities Services Fund Account	\$ -
(6) Medical Services Fund Account	\$ -
(7) Department of Human Services Grants Fund Account	\$ 83,566,432
(8) Behavioral Health Services Fund Account	\$ 6,000,000
(9) Provider Services and Quality Assurance Fund Account	\$ -
(10) County Operations Fund Account	\$ 5,000,000

Name of Fund or Fund Account	Maximum Allocation
STATE GENERAL GOVERNMENT FUND	
(1) Division of Arkansas Heritage Fund Account	\$ -
(2) Department of Agriculture Fund Account	\$ 886,174
(3) Department of Labor and Licensing Fund Account	\$ 650,000
(4) Division of Higher Education Fund Account	\$ 579,272
(5) Higher Education Grants Fund Account	\$ 2,600,873
(6) Arkansas Economic Development Commission Fund Account	\$ 680,874
(7) Division of Correction Inmate Care and Custody Fund Account	\$ 9,378,462
(8) Division of Community Correction Fund Account	\$ 3,256,341
(9) Department of the Military Fund Account	\$ 679,051
(10) Parks and Tourism Fund Account	\$ -
(11) Division of Environmental Quality Fund Account	\$ 198,271
(12) Miscellaneous Agencies Fund Account	\$ 42,629
COUNTY AID FUND	\$ 1,071,430
COUNTY JAIL REIMBURSEMENT FUND	\$ 968,297
CRIME INFORMATION SYSTEM FUND	\$ -
CHILD SUPPORT ENFORCEMENT FUND	\$ -
PUBLIC HEALTH FUND	\$ 413,847
PERFORMANCE FUND	\$ 10,000,000
MOTOR VEHICLE ACQUISITION REVOLVING FUND	\$ -
MUNICIPAL AID FUND	\$ 1,468,605
DIVISION OF ARKANSAS STATE POLICE FUND	\$ 4,117,040
DIVISION OF WORKFORCE SERVICES FUND-TANF	\$ -
DIVISION OF WORKFORCE SERVICES FUND-ADULT EDUCATION	\$ -
STATE SERVICES FOR THE BLIND FUND	\$ -
SKILLS DEVELOPMENT FUND	\$ -
INSTITUTIONS OF HIGHER EDUCATION	
(1) ARKANSAS STATE UNIVERSITY FUND	\$ 5,407,122
(2) ARKANSAS TECH UNIVERSITY FUND	\$ 6,516,177
(3) HENDERSON STATE UNIVERSITY FUND	\$ 1,253,868
(4) SOUTHERN ARKANSAS UNIVERSITY FUND	\$ 1,841,082
(5) UNIVERSITY OF ARKANSAS FUND	\$ 14,165,100
(6) UNIVERSITY OF ARKANSAS FUND-UA SYSTEM	\$ 173,974

Name of Fund or Fund Account	Maximum Allocation
(7) UNIVERSITY OF ARKANSAS FUND-ARCHEOLOGICAL SURVEY	\$ 118,464
(8) UNIVERSITY OF ARKANSAS FUND-DIVISION OF AGRICULTURE	\$ 3,290,007
(9) UNIVERSITY OF ARKANSAS FUND-CLINTON SCHOOL	\$ 116,845
(10) UNIVERSITY OF ARKANSAS FUND-CRIMINAL JUSTICE INSTITUTE	\$ 312,932
(11) SCHOOL FOR MATH, SCIENCES, AND ARTS FUND	\$ 56,652
(12) UNIVERSITY OF ARKANSAS AT FORT SMITH FUND	\$ 2,583,762
(13) UNIVERSITY OF ARKANSAS AT LITTLE ROCK FUND	\$ 2,906,837
(14) UNIVERSITY OF ARKANSAS MEDICAL CENTER FUND	\$ 4,400,644
(15) UNIVERSITY OF ARKANSAS MEDICAL CENTER FUND - CHILD ABUSE/RAPE/DOMESTIC VIOLENCE	\$ -
(16) UNIVERSITY OF ARKANSAS MEDICAL CENTER FUND - PEDIATRICS/PSYCHIATRIC RESEARCH	\$ 99,255
(17) UNIVERSITY OF ARKANSAS MEDICAL CENTER FUND - INDIGENT CARE	\$ 271,917
(18) UNIVERSITY OF ARKANSAS AT MONTICELLO FUND	\$ 2,210,440
(19) UNIVERSITY OF ARKANSAS AT PINE BLUFF FUND	\$ 1,707,070
(20) UNIVERSITY OF CENTRAL ARKANSAS FUND	\$ 4,333,449
(21) ARKANSAS NORTHEASTERN COLLEGE FUND	\$ 659,559
(22) ARKANSAS STATE UNIVERSITY - BEEBE FUND	\$ 246,856
(23) ARKANSAS STATE UNIVERSITY - MOUNTAIN HOME FUND	\$ 38,311
(24) ARKANSAS STATE UNIVERSITY - NEWPORT FUND	\$ 660,758
(25) COSSATOT COMMUNITY COLLEGE OF THE UNIVERSITY OF ARKANSAS FUND	\$ 506,714
(26) EAST ARKANSAS COMMUNITY COLLEGE FUND	\$ 1,011,391
(27) ARKANSAS STATE UNIVERSITY MID-SOUTH FUND	\$ 191,662

Name of Fund or Fund Account	Maximum Allocation
(28) ARKANSAS STATE UNIVERSITY MID-SOUTH FUND - ADTEC	\$ 77,700
(29) NATIONAL PARK COLLEGE FUND	\$ 1,065,032
(30) NORTH ARKANSAS COLLEGE FUND	\$ 166,961
(31) NORTHWEST ARKANSAS COMMUNITY COLLEGE FUND	\$ 1,673,549
(32) PHILLIPS COMMUNITY COLLEGE OF THE UNIVERSITY OF ARKANSAS FUND	\$ 715,958
(33) UNIVERSITY OF ARKANSAS COMMUNITY COLLEGE AT RICH MOUNTAIN FUND	\$ 448,130
(34) SAU-TECH FUND	\$ 276,317
(35) SAU-TECH FUND-ENVIRONMENTAL TRAINING ACADEMY	\$ 18,752
(36) SAU-TECH FUND-FIRE TRAINING ACADEMY	\$ 84,047
(37) SOUTH ARKANSAS COMMUNITY COLLEGE FUND	\$ 476,521
(38) UNIVERSITY OF ARKANSAS COMMUNITY COLLEGE AT BATESVILLE FUND	\$ 663,332
(39) UNIVERSITY OF ARKANSAS COMMUNITY COLLEGE AT HOPE-TEXARKANA FUND	\$ 394,195
(40) UNIVERSITY OF ARKANSAS COMMUNITY COLLEGE AT MORRILTON FUND	\$ 586,885
(41) BLACK RIVER TECHNICAL COLLEGE FUND	\$ 144,325
(42) ARKANSAS STATE UNIVERSITY THREE RIVERS FUND	\$ 53,565
(43) OZARKA COLLEGE FUND	\$ 439,924
(44) UNIVERSITY OF ARKANSAS - PULASKI TECHNICAL COLLEGE FUND	\$ 357,358
(45) SOUTHEAST ARKANSAS COLLEGE FUND	\$ 133,071

History. Acts 1973, No. 750, § 11; 1974 (1st Ex. Sess.), No. 90, § 1; 1975, No. 868, § 15; 1977, No. 955, § 1; 1977 (1st Ex. Sess.), No. 7, § 1; 1979, No. 1115, § 1; 1981, No. 937, § 1; 1983, No. 801, § 12; 1983 (1st Ex. Sess.), No. 119, § 1; 1985, No. 888, § 25; A.S.A. 1947, § 13-515; Acts 1987, No. 928, § 15; 1989, No. 629, § 15; 1991, No. 1135, § 14; 1993, No. 1073, § 32; 1995, No. 1163, § 32; 1997, No. 1248, § 29; 1999, No. 1463, § 31; 2001, No. 1646, § 30; 2003 (1st Ex. Sess.), No. 55, § 40; 2005, No. 2282, § 17; 2005, No. 2316, § 17; 2007, No. 1032, § 35; 2007, No. 1201, § 35; 2009, No. 1440, § 8; 2009, No. 1441, § 8; 2010, No. 262, § 13; 2010, No. 296, § 13; 2011, No. 1095, § 17; 2011,

No. 1115, § 17; 2012, No. 271, § 7; 2012, No. 287, § 7; 2013, No. 1516, § 4; 2013, No. 1517, § 4; 2014, No. 290, § 10; 2014, No. 299, § 10; 2014 (2nd Ex. Sess.), No. 1, § 2; 2014 (2nd Ex. Sess.), No. 5, § 2; 2015, No. 1144, § 10; 2015, No. 1145, § 10; 2016, No. 242, § 4; 2016, No. 270, § 4; 2017, No. 141, § 1; 2017, No. 1083, § 23; 2017, No. 1127, § 23; 2018, No. 259, § 4; 2018, No. 260, § 4; 2019, No. 998, § 9; 2019, No. 1024, § 9; 2020, No. 186, § 5; 2020, No. 187, § 5; 2021, No. 1011, § 4; 2021, No. 1099, § 4; 2022, No. 225, § 6; 2022, No. 226, § 6.

A.C.R.C. Notes. Identical Acts 2017, Nos. 1083 and 1127, § 1, provided: "The purpose of this act is to amend the Rev-

enue Stabilization Law.”

Identical Acts 2017, Nos. 1083 and 1127, § 24, provided: “DUPLICATE ACTS. If HB1548 and SB295 of the 2017 Regular Session of the 91st General Assembly are both enacted and adopted by the 91st General Assembly in identical form, then the last Act passed or latest expression shall supersede the other.”

Identical Acts 2017, Nos. 1083 and 1127, § 25, provided: “It is the intent of the General Assembly that if the Official General Revenue Forecast reduces the maximum annual allocations provided for in subsection (b) of this Act [§ 19-5-402(b)], the reduction or elimination of funding in allocation (b) [§ 19-5-402(b)] Department of Education Public School Fund Account shall only reduce funding for items identified by the Department of Education that are not necessary to provide public school students an equal opportunity for an adequate education.”

Identical Acts 2018, Nos. 259 and 260, § 1, provided: “The purpose of this act is to amend the Revenue Stabilization Law and to create funds, to repeal funds, and to make transfers to and from funds and fund accounts.”

Identical Acts 2018, Nos. 259 and 260, § 9, provided: “DUPLICATE ACTS. If HB1137 and SB122 of the 2018 Fiscal Session of the 91st General Assembly are both enacted and adopted by the 91st General Assembly in identical form, then the last Act passed or latest expression shall supersede the other.”

Identical Acts 2019, Nos. 998 and 1024, § 1, provided: “The purpose of this act is to amend the Revenue Stabilization Law, § 19-5-101 et seq.”

Identical Acts 2019, Nos. 998 and 1024, § 10, provided: “DUPLICATE ACTS. If HB1876 and SB597 of the 2019 Regular Session of the 92nd General Assembly are both enacted and adopted by the 92nd General Assembly in identical form, then the last Act passed or latest expression shall supersede the other.”

Identical Acts 2020, Nos. 186 and 187, § 1, provided: “The purpose of this act is to amend the Revenue Stabilization Law and to create funds, to repeal funds, and

to make transfers to and from funds and fund accounts.”

Identical Acts 2020, Nos. 186 and 187, § 6, provided: “DUPLICATE ACTS. If HB1096 and SB83 of the 2020 Fiscal Session of the 92nd General Assembly are both enacted and adopted by the 92nd General Assembly in identical form, then the last Act passed or latest expression shall supersede the other.”

Identical Acts 2021, Nos. 1011 and 1099, § 1, provided: “The purpose of this act is to amend the Revenue Stabilization Law, § 19-5-101 et seq.”

Identical Acts 2021, Nos. 1011 and 1099, § 5, provided: “DUPLICATE ACTS. If HB1949 and SB702 of the 2021 Regular Session of the 93rd General Assembly are both enacted and adopted by the 93rd General Assembly in identical form, then the last Act passed or latest expression shall supersede the other.”

Identical Acts 2022, Nos. 225 and 226, § 1, provided: “The purpose of this act is to amend the Revenue Stabilization Law, § 19-5-101 et seq., create funds, and make transfers to and from funds and fund accounts.”

Identical Acts 2022, Nos. 225 and 226, § 9, provided: “DUPLICATE ACTS. If HB1117 and SB101 of the 2022 Fiscal Session of the 93rd General Assembly are both enacted and adopted by the 93rd General Assembly in identical form, then the last Act passed or latest expression shall supersede the other.”

Amendments. The 2017 amendment by No. 141 added (a)(3).

The 2017 amendment by identical acts Nos. 1083 and 1127 rewrote the section.

The 2018 amendment by identical acts Nos. 259 and 260 rewrote the section.

The 2019 amendment by identical acts Nos. 998 and 1024 rewrote the section.

The 2020 amendment by identical acts Nos. 186 and 187 rewrote the section.

The 2021 amendment by identical acts Nos. 1011 and 1099 rewrote the section.

The 2022 amendment by identical acts Nos. 225 and 226 rewrote the section.

Effective Dates. Identical Acts 2022, Nos. 225 and 226, § 10: July 1, 2022, §§ 1-3, 5, 6, 8, 9.

19-5-406. Transfer of remaining revenues.

(a) After making the maximum annual allocation as provided for in § 19-5-402, the first two hundred million dollars (\$200,000,000) shall be distributed as follows:

(1) Seventy-five percent (75%) of the remaining general revenues available for distribution during each fiscal year shall be transferred on the last day of business in each calendar month to the General Revenue Allotment Reserve Fund, there to be used as stated under subsection (b) of this section; and

(2) Twenty-five percent (25%) of the remaining general revenues available for distribution during each fiscal year, but not to exceed fifty million dollars (\$50,000,000) each fiscal year, shall be transferred on the last day of business in each calendar month to the State Highway and Transportation Department Fund.

(b)(1) The Chief Fiscal Officer of the State shall determine whether the balance of the Catastrophic Reserve Fund is twenty percent (20%) of the total amount of general revenue funds last distributed under § 19-5-402.

(2) If the Chief Fiscal Officer of the State determines that the balance of the Catastrophic Reserve Fund is less than twenty percent (20%) of the total amount of general revenue funds last distributed under § 19-5-402, then after the distributions under subsection (a) of this section, any additional revenue, including the distributions under subdivision (a)(1) of this section and any additional revenues in excess of those distributed under subsection (a) of this section, shall be transferred to the Catastrophic Reserve Fund to ensure that the Catastrophic Reserve Fund balance equals but does not exceed twenty percent (20%) of the total amount of general revenue funds last distributed under § 19-5-402.

(3) If it is determined that the balance of the Catastrophic Reserve Fund exceeds twenty percent (20%) of the total amount of general revenue funds last distributed under § 19-5-402, the amount in excess shall remain in the Catastrophic Reserve Fund unless the General Assembly directs otherwise.

(c) Any additional revenues available after the distributions in subsection (b) of this section shall be transferred on the last day of business in each calendar month to the General Revenue Allotment Reserve Fund, there to be used for the respective purposes as provided by law.

History. Acts 1973, No. 750, § 11; 1974 (1st Ex. Sess.), No. 90, § 1; 1975, No. 868, § 15; 1977, No. 955, § 1; 1977 (1st Ex. Sess.), No. 7, § 1; 1979, No. 1115, § 1; 1981, No. 937, § 1; 1983, No. 801, § 12; 1983 (1st Ex. Sess.), No. 119, § 1; 1985, No. 888, § 25; A.S.A. 1947, § 13-515; Acts 1987, No. 928, § 15; 2010, No. 262, § 6; 2010, No. 296, § 6; 2016 (3rd Ex. Sess.),

No. 1, § 6; 2021, No. 1058, § 6; 2021 (2nd Ex. Sess.), No. 1, § 1; 2021 (2nd Ex. Sess.), No. 2, § 1.

A.C.R.C. Notes. Acts 2021, No. 1058, § 1, provided: "Legislative findings — Nonseverability.

"(a) The General Assembly finds that:

"(1) Determining the maximum amount of appropriation and funding for a

state agency or institution each fiscal year is the prerogative of the General Assembly;

"(2) Determining the maximum amount of appropriation and funding for a state agency or institution is usually accomplished by delineating the maximum amounts in the appropriation acts for the state agency or institution and in the general revenue allocations authorized for each relevant fund and fund account by amendment to the Revenue Stabilization Law, § 19-5-101 et seq.;

"(3) The Restricted Reserve Fund has established procedures for the transfer of funds to various funds and fund accounts for the efficient and effective operation of state government; and

"(4) It is necessary and appropriate that the General Assembly maintain oversight by requiring prior approval of the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, as provided in § 19-5-1263(c).

"(b) The requirement of approval by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, is not a severable part of

§ 19-5-1263. If the requirement of approval by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, is ruled unconstitutional by a court of competent jurisdiction, § 19-5-1263(c) (d) and (e) are void in their entirety."

Amendments. The 2021 amendment redesignated former (1) and (2) as (1)(A) and (1)(B); added "The first two hundred million dollars (\$200,000,000) shall be distributed as follows:" as the introductory language of (1); substituted "State Highway and Transportation Department Fund" for "Arkansas Highway Transfer Fund" in (a)(1)(B); and added (2).

The 2021 (2nd Ex. Sess.) amendment by identical acts Nos. 1 and 2 redesignated the former introductory language and (1) as (a); redesignated former (1)(A), (1)(B), and (2) as (a)(1), (a)(2), and (c); substituted "as stated under subsection (b) of this section" for "for the respective purposes as provided by law" in (a)(1); inserted "but not to exceed fifty million dollars (\$50,000,000) each fiscal year" in (a)(2); inserted (b); and substituted "subsection (b)" for "subdivision (1)" in (c).

SUBCHAPTER 9 — TRUST FUNDS

SECTION.

19-5-905. Securities Reserve Fund.

Effective Dates. Identical Acts 2021 (2nd Ex. Sess.), Nos. 1 and 2, § 14: Dec. 9, 2021. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act would create significant changes to the state's income tax laws; that this act would create significant changes to the fiscal policy of the state; that taxpayers and employers plan to meet their obligations on a calendar-year basis; and that this act is immediately necessary to ensure the financial stability of the state, to allow taxpayers and employers time both to plan for and to implement the changes in law created by this act, and to ensure

that the Department of Finance and Administration has sufficient time to update its forms and software and train its personnel in accordance with this act. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

19-5-905. Securities Reserve Fund.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a trust fund to be known as the "Securities Reserve Fund". The Securities Reserve Fund shall consist of moneys derived from savings effected in the retirement in advance of maturity of nonhighway direct general obligation bonds of the state, of discounts received in the purchase of securities, and of premiums and interest derived from the sale of securities held in the Securities Account by the Treasurer of State as custodian. The Securities Reserve Fund shall be used as follows:

(1) To pay premiums and the purchase and absorbing of discounts in the sale of securities held in the Securities Account, not to exceed five hundred thousand dollars (\$500,000) in any one (1) fiscal year;

(2) To guarantee bonds in an aggregate principal amount not to exceed five million dollars (\$5,000,000) outstanding at any time, with no bond bearing interest at a rate exceeding eight percent (8%) per annum, of the Museum and Cultural Commission Fund authorized, and in the manner prescribed in the Arkansas Museum and Cultural Center Act, § 13-5-301 et seq., not to exceed five hundred thousand dollars (\$500,000) in any one (1) fiscal year;

(3) To guarantee bonds of any other park or recreation facility approved by the Governor and the Department of Parks, Heritage, and Tourism, not to exceed five hundred thousand dollars (\$500,000) in the aggregate, after seeking advice of the Legislative Council and the Legislative Joint Auditing Committee;

(4) To guarantee industrial development bonds as authorized by §§ 15-4-702 — 15-4-710;

(5) To absorb losses incurred in the investing of securities held in the Securities Account in the State Treasury and in bank depositories. The balance of the Securities Reserve Fund shall always be available for this purpose;

(6) To guarantee loans to students to attend truck driving school at the Arkansas Commercial Driver Training Institute at Arkansas State University-Newport, in an aggregate principal amount not to exceed four hundred thousand dollars (\$400,000) outstanding at any one (1) time;

(7) To distribute:

(A) Interest income earned on investment of balances of the following:

(i) The State Highway and Transportation Department Fund, as authorized by § 27-70-204;

(ii) The Game Protection Fund, as authorized by § 15-41-110;

(iii) The funds deposited into the State Treasury by state agencies, boards, and commissions that were previously held as cash funds in a bank depository or investment depository, as authorized by § 19-3-518(d); and

(iv) State and Local Fiscal Assistance Act of 1972, 31 U.S.C. § 6701 et seq., as authorized by § 19-3-521(c); and

(B) Interest income earned from investment of State Treasury balances by any other laws enacted by the General Assembly;

(8) After the distributions enumerated in subdivision (a)(7) of this section, for a one-time transfer by the Chief Fiscal Officer of the State of one million five hundred thousand dollars (\$1,500,000) to the Arkansas Highway Transfer Fund, to be transferred only in Fiscal Year 2017;

(9) After the distributions enumerated in subdivisions (a)(7) and (8) of this section, for a transfer by the Chief Fiscal Officer of the State of five million dollars (\$5,000,000) each fiscal year to the Budget Stabilization Trust Fund;

(10) After the transfer to the Budget Stabilization Trust Fund enumerated in subdivision (a)(9) of this section, for a transfer by the Chief Fiscal Officer of the State of twenty million dollars (\$20,000,000) beginning in Fiscal Year 2018 and each fiscal year thereafter to the Arkansas Highway Transfer Fund;

(11) For a transfer by the Chief Fiscal Officer of the State on the last business day of the fiscal year to the Budget Stabilization Trust Fund to reimburse the Budget Stabilization Trust Fund for any current fiscal year transfers that have been made to the following:

(A) The Division of Correction Farm Fund under § 19-5-501(b)(1);

(B) The Department of the Military Fund Account under § 19-5-501(b)(3);

(C) The Disaster Assistance Fund under § 19-5-1006;

(D) The Miscellaneous Revolving Fund under § 19-5-1009;

(E) The State Central Services Fund under § 19-5-501(d); and

(F) The State Board of Election Commissioners, as authorized by law; and

(12) After all distributions and transfers under this section, less one hundred thousand dollars (\$100,000) under § 19-3-521(a)(2), for a transfer by the Chief Fiscal Officer of the State on the last business day of the fiscal year of the fund balance to the Catastrophic Reserve Fund.

(b) If any loss is sustained in relation to securities at any time held in the Securities Account or in any bank depository and if the credit balance in the Securities Reserve Fund is insufficient to absorb the loss, the Chief Fiscal Officer of the State shall cause a transfer of moneys to be made from the Budget Stabilization Trust Fund to the Securities Reserve Fund in such amount as shall, when added to the credit balance in the Securities Reserve Fund, equal the amount of the loss. It is the intent of the General Assembly that no loss shall be sustained by any account the funds of which were used in making such investments and deposits.

History. Acts 1973, No. 750, § 8; 1975, No. 868, § 14; 1975 (Extended Sess., 1976), No. 1018, § 1; A.S.A. 1947, § 13-531; reen. Acts 1987, No. 860, § 1; 1995, No. 1084, § 1; 2016 (3rd Ex. Sess.), No. 1, § 8; 2017, No. 555, § 5; 2019, No. 910, § 986; 2021 (2nd Ex. Sess.), No. 1, § 2; 2021 (2nd Ex. Sess.), No. 2, § 2.

Amendments. The 2017 amendment deleted “average daily” following “investment of” in (a)(7)(A) and (a)(7)(B).

The 2019 amendment substituted “Division of Correction Farm Fund” for “Department of Correction Farm Fund” in (a)(11)(A); and substituted “Department

of the Military Fund Account” for “State Military Department Fund Account” in (a)(11)(B).

The 2021 (2nd Ex. Sess.) amendment by identical acts Nos. 1 and 2 substituted “Catastrophic” for “Long Term” in (a)(12).

SUBCHAPTER 12 — MISCELLANEOUS FUNDS CONTINUED

19-5-1262. Rainy Day Fund. [Repealed effective December 31, 2022.]

A.C.R.C. Notes. Acts 2021, No. 1058, § 2, as amended by identical Acts 2022, Nos. 225 and 226, § 4, provided: “TRANSFERS TO THE RESTRICTED RESERVE FUND. Immediately upon the effective date of this Act [April 29, 2021], as soon thereafter as is practical or as authorized in this Section the State Treasurer shall transfer and credit to the ‘Restricted Reserve Fund’ or the ‘Rainy Day Fund’ as authorized in subsection (a)(2) herein, upon certification of the amounts thereof by the Chief Fiscal Officer of the State, the following:

“(a)(1) Any unobligated funds, which are set aside as authorized in Subsections (b)(2)(4)(5)(6) and (7) of Section 3 of Act 1023 of 2019, remaining in the Rainy Day Fund, on July 1, 2021;

“(2) Any unobligated funds remaining in the Rainy Day Fund from funds made available Subsections (d)(1) and (2) of Section 3 of Act 1023 of 2019 shall be transferred to the Rainy Day Fund, on July 1, 2021;

“(3) Any unobligated funds remaining in the Rainy Day Fund from funds made available for the Debt Obligations/Priority Rainy Day Set-Aside, for a transfer to the Economic Development Incentive Quick Action Closing Fund as authorized in subsection (b)(3) of Section 3 of Act 1023 of 2019 shall be transferred and credited to the Restricted Reserve Fund for the Quick Action Closing Fund Carry Forward Set-Aside authorized in Section 3(a)(3)(B) of this Act, on July 1, 2021;

“(b) All unobligated and unallocated monies remaining in the ‘General Improvement Fund’ or the ‘Development and Enhancement Fund’ on June 30, 2021 which are not required to finance projects to be financed therefrom pursuant to ap-

propriations enacted by the General Assembly, or which have not been reappropriated or reallocated for financing from the ‘Development and Enhancement Fund’ by the 93rd General Assembly;

“(c) Any unobligated or unallocated funds remaining on July 2, 2021, in the ‘General Revenue Allotment Reserve Fund’ from monies accruing thereto which are not required to finance enactments of the 93rd General Assembly that do not expire on June 30, 2021, including all General Revenue Funds recovered from remaining fund balances;

“(d) Those special revenues credited to the General Improvement Fund or the Development and Enhancement Fund from estate taxes as set out in Arkansas Code § 19-6-301(171);

“(e) Other revenues as may be transferred or authorized by law.”

Identical Acts 2022, Nos. 225 and 226, § 7, provided: “LEGISLATIVE INTENT. It is the intent that Section (c)(2) in Act 1058 of 2021 is repealed in Section 4 of this Act because under that subsection of Arkansas Code all surplus funds from Fiscal Year 2022 would have deposited into the Catastrophic Reserve Fund and the Arkansas Code was amended in a subsequent special session to provide a potentially conflicting procedure that the Catastrophic Reserve Fund shall be funded with surplus funds to maintain a level of at least twenty percent of the previous fiscal years funding and for surplus funds also be provided to the Department of Transportation in an amount of twenty-five percent of the available surplus, up to fifty million dollars, and any remaining funds be deposited into the General Revenue Allotment Reserve fund, where they may only be transferred out as authorized by the General Assembly.”

19-5-1263. Restricted Reserve Fund.

A.C.R.C. Notes. Acts 2021, No. 1058, § 2, as amended by identical Acts 2022, Nos. 225 and 226, § 4, provided: "TRANSFERS TO THE RESTRICTED RESERVE FUND. Immediately upon the effective date of this Act [April 29, 2021], as soon thereafter as is practical or as authorized in this Section the State Treasurer shall transfer and credit to the 'Restricted Reserve Fund' or the 'Rainy Day Fund' as authorized in subsection (a)(2) herein, upon certification of the amounts thereof by the Chief Fiscal Officer of the State, the following:

"(a)(1) Any unobligated funds, which are set aside as authorized in Subsections (b)(2)(4)(5)(6) and (7) of Section 3 of Act 1023 of 2019, remaining in the Rainy Day Fund, on July 1, 2021;

"(2) Any unobligated funds remaining in the Rainy Day Fund from funds made available Subsections (d)(1) and (2) of Section 3 of Act 1023 of 2019 shall be transferred to the Rainy Day Fund, on July 1, 2021;

"(3) Any unobligated funds remaining in the Rainy Day Fund from funds made available for the Debt Obligations/Priority Rainy Day Set-Aside, for a transfer to the Economic Development Incentive Quick Action Closing Fund as authorized in subsection (b)(3) of Section 3 of Act 1023 of 2019 shall be transferred and credited to the Restricted Reserve Fund for the Quick Action Closing Fund Carry Forward Set-Aside authorized in Section 3(a)(3)(B) of this Act, on July 1, 2021;

"(b) All unobligated and unallocated monies remaining in the 'General Improvement Fund' or the 'Development and Enhancement Fund' on June 30, 2021 which are not required to finance projects to be financed therefrom pursuant to appropriations enacted by the General Assembly, or which have not been reappropriated or reallocated for financing from the 'Development and Enhancement Fund' by the 93rd General Assembly;

"(c) Any unobligated or unallocated funds remaining on July 2, 2021, in the 'General Revenue Allotment Reserve Fund' from monies accruing thereto which are not required to finance enactments of the 93rd General Assembly that do not expire on June 30, 2021, including all

General Revenue Funds recovered from remaining fund balances;

"(d) Those special revenues credited to the General Improvement Fund or the Development and Enhancement Fund from estate taxes as set out in Arkansas Code § 19-6-301(171);

"(e) Other revenues as may be transferred or authorized by law."

Identical Acts 2021 (2nd Ex. Sess.), Nos. 8 and 10, § 1, provided: "Supplemental funding transfer to Restricted Reserve Fund.

"(a) Notwithstanding any other provisions of law, immediately upon the effective date of this act [Dec. 9, 2021], as authorized in Acts 2021, No. 1058, § 2(c), and as determined by the Chief Fiscal Officer of the State under Acts 2021, No. 1058, § 3(a)(1) and 3(a)(1)(A), reclaimed or recovered fiscal year 2021 unexpended general revenue balances shall be transferred on the books of the Chief Fiscal Officer of the State, the Treasurer of State, and the Auditor of State to the Executive/Legislative 3/5 Vote Set-Aside in an amount that, when added to the existing fund balance in the Executive/Legislative 3/5 Vote Set-Aside as of the date of this transfer, causes the total balance in the Executive/Legislative 3/5 Vote Set-Aside to equal fifty million dollars (\$50,000,000).

"(b) After making the transfer described in subsection (a) of this section, all remaining funds from the reclaimed or recovered fiscal year 2021 unexpended general revenue balances shall be transferred to the Unallocated Restricted Reserve Majority Vote Set-Aside, as authorized in Acts 2021, No. 1058, § 2(c), and as determined by the Chief Fiscal Officer of the State under Acts 2021, No. 1058, § 3(a)(2) and 3(a)(2)(A).

"(c) The fund transfers in subsections (a) and (b) of this section are in addition to those funds previously authorized and shall be transferred out of the Executive/Legislative 3/5 Vote Set-Aside and the Unallocated Restricted Reserve Majority Vote Set-Aside as provided in Acts 2021, No. 1058."

Identical Acts 2022, Nos. 225 and 226, § 2, provided:

"(a) Notwithstanding any other provisions of law, immediately upon the effective

tive date of this act, a new sub-fund within the Restricted Reserve Fund shall be established as the 'EBD or Contingency 3/5 Vote Set Aside' and all balances in the Executive/Legislative 3/5 Vote Set Aside in the Restricted Reserve Fund as authorized under Acts 2021, No. 1058, § 3(a)(1)(A), shall be transferred to the EBD or Contingency 3/5 Vote Set Aside.

"(b) Any disbursement of the funds in the EBD or Contingency 3/5 Vote Set Aside may be used for transfers as set out in § 19-5-1263(c) and (d).

"(c) On July 1, 2024, all unobligated funds remaining in the EBD or Contingency 3/5 Vote Set Aside in the Restricted Reserve Fund, as established in subsection (a) of this section, shall be transferred to the General Revenue Allotment Reserve Fund.

"(d)(1) The General Assembly finds:

"(A) Determining the maximum amount of appropriation and funding for a state agency or institution each fiscal year is the prerogative of the General Assembly;

"(B) Determining the maximum amount of appropriation and funding for a state agency or institution is usually accomplished by delineating the maximum amounts in the appropriation acts for the state agency or institution and in the general revenue allocations authorized for each relevant fund and fund account by amendment to the Revenue Stabilization Law, § 19-5-101 et seq.; and

"(C) The Restricted Reserve Fund has established procedures for the transfer of funds to various funds and fund accounts for the efficient and effective operation of state government.

"(2)(A) It is necessary and appropriate that the General Assembly maintain oversight by requiring prior approval of the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, as provided in § 19-5-1263(c).

"(B) The requirement of approval by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, is not a severable part of § 19-5-1263.

"(C) If the requirement of approval by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, is ruled unconstitutional by a court of competent jurisdiction, § 19-5-1263(c)-(e) are void in their entirety."

Identical Acts 2022, Nos. 225 and 226, § 3, provided: "FUNDING TRANSFER.

"(a) Immediately upon the effective date of this act as soon thereafter as is practical after all transfers from the General Revenue Allotment Reserve Fund enacted by the 93rd General Assembly meeting in the 2022 Fiscal Session are transferred, the Chief Fiscal Officer of the State shall transfer on his or her books and those of the State Treasurer and the Auditor of the State the sum of one hundred fifty million dollars (\$150,000,000) from the General Revenue Allotment Reserve Fund to the Majority Vote Various Improvements and Projects Set-Aside in the Restricted Reserve Fund established in subsection (b) herein.

"(b) The transfer of funds as authorized in subsection (a) herein shall be set aside in a sub-fund of the Restricted Reserve Fund named the Majority Vote Various Improvements and Projects Set-Aside.

"(c) Notwithstanding other provisions of law as set out in 19-5-1263(c) the Majority Vote Various Improvements and Projects Set-Aside in the Restricted Reserve Fund shall only require a majority affirmative vote as set out in the rules of the Legislative Council or the Joint Budget Committee during a legislative session for prior approval of the requested disbursement as authorized in 19-5-1263(d).

"(d) On July 1, 2023 all unobligated funds remaining in the 'Majority Vote Various Improvements and Projects Set-Aside' in the Restricted Reserve Fund, as established in subsection (b) herein, shall be transferred to the General Revenue Allotment Reserve Fund."

Identical Acts 2022, Nos. 225 and 226, § 7, provided: "LEGISLATIVE INTENT. It is the intent that Section (c)(2) in Act 1058 of 2021 is repealed in Section 4 of this Act because under that subsection of Arkansas Code all surplus funds from Fiscal Year 2022 would have deposited into the Catastrophic Reserve Fund and the Arkansas Code was amended in a subsequent special session to provide a potentially conflicting procedure that the Catastrophic Reserve Fund shall be funded with surplus funds to maintain a level of at least twenty percent of the previous fiscal years funding and for surplus funds also be provided to the Department of Transportation in an amount of twenty-five percent of the available sur-

plus, up to fifty million dollars, and any remaining funds be deposited into the General Revenue Allotment Reserve fund,

where they may only be transferred out as authorized by the General Assembly."

CHAPTER 6

REVENUE CLASSIFICATION LAW

SUBCHAPTER.

4. SPECIAL REVENUE FUNDS.

SUBCHAPTER 4 — SPECIAL REVENUE FUNDS

SECTION.

19-6-486. Catastrophic Reserve Fund.

Effective Dates. Identical Acts 2021 (2nd Ex. Sess.), Nos. 1 and 2, § 14: Dec. 9, 2021. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act would create significant changes to the state's income tax laws; that this act would create significant changes to the fiscal policy of the state; that taxpayers and employers plan to meet their obligations on a calendar-year basis; and that this act is immediately necessary to ensure the financial stability of the state, to allow taxpayers and employers time both to plan for and to implement the changes in law created by this act, and to ensure that the Department of Finance and Administration has sufficient time to update its forms and software and train its personnel in accordance with this act. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Identical Acts 2021 (2nd Ex. Sess.), Nos. 8 and 10, § 4: Dec. 9, 2021. Emergency

clause provided: "It is found and determined by the General Assembly of the State of Arkansas that, due to unforeseen circumstances, funds provided by the General Assembly for the Restricted Reserve Fund under Acts 2021, No. 1058, and the funds provided to the General Revenue Allotment Reserve Fund and Economic Development Incentive Quick Action Closing Fund are insufficient to provide funding for unanticipated circumstances and possible essential governmental services; that this act will provide the necessary funds to address unanticipated services and various state-funded projects; and that this act is immediately necessary because a delay in the effective date of this act could work irreparable harm upon the proper implementation, administration, or operations of government-funded programs. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

19-6-486. Catastrophic Reserve Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Catastrophic Reserve Fund".

(b) The Catastrophic Reserve Fund shall consist of such funds as may be provided by the General Assembly.

(c) The Catastrophic Reserve Fund shall be used to distribute moneys to one (1) or more funds or fund accounts in the Revenue Stabilization Law, § 19-5-101 et seq.

(d)(1) After determining the estimated amount of general revenue that will be available for allocation to the state agencies under the Revenue Stabilization Law, § 19-5-101 et seq., and after making the determination required by § 19-5-1227(c) and prior to making any transfers deemed necessary by the Chief Fiscal Officer of the State in § 19-5-1227(d), the Chief Fiscal Officer of the State may transfer funds from the Catastrophic Reserve Fund in the event a revenue shortfall exists to meet the state's financial obligation to provide an adequate educational system for the state and to provide for the effective operation of state government. In the event the Chief Fiscal Officer of the State determines that a revenue shortfall exists as defined as a circumstance when the official forecast of gross general revenue certified by the Chief Fiscal Officer of the State is projected to increase less than three percent (3%) over and above the gross general revenue collections of the previous fiscal year due to changes in economic conditions, the Chief Fiscal Officer of the State may then transfer funds from the Catastrophic Reserve Fund, as approved by a vote of at least two-thirds ($\frac{2}{3}$) of the members of the Legislative Council or at least two-thirds ($\frac{2}{3}$) of the members of the Joint Budget Committee, to various funds and fund accounts, as deemed necessary, in the Revenue Stabilization Law, § 19-5-101 et seq., for the purpose of meeting unanticipated shortfalls in state general revenue.

(2) Or the Chief Fiscal Officer of the State may transfer funds from the Catastrophic Reserve Fund to the Economic Development Super-projects Project Fund for projects authorized under Arkansas Constitution, Amendment 82, as approved by the Governor and at least two-thirds ($\frac{2}{3}$) of the members of the Legislative Council or at least two-thirds ($\frac{2}{3}$) of the members of the Joint Budget Committee.

(3)(A) The Chief Fiscal Officer of the State may make a one-time transfer of up to fifty million dollars (\$50,000,000) from the Catastrophic Reserve Fund or its successor fund or fund accounts to the General Revenue Allotment Reserve Fund before March 31, 2022.

(B) A transfer under subdivision (d)(3)(A) of this section is not subject to the procedures established in subsection (e) of this section.

(e)(1) Upon recommendation by the Chief Fiscal Officer of the State, the Governor may determine that circumstances exist that meet the requirements for the utilization of the Catastrophic Reserve Fund as set out in this section, and the procedures under this section shall apply.

(2) When the Governor determines there is a need requiring transfer from the Catastrophic Reserve Fund, he or she shall instruct the Chief Fiscal Officer of the State to prepare and submit written documentation to the Legislative Council or the Joint Budget Committee. Such documentation shall include:

(A) Sufficient financial data that will enable the verification of the existence of an emergency and the amount necessary to address the need for funds from the Catastrophic Reserve Fund;

(B) A proposed distribution of moneys from the Catastrophic Reserve Fund to one (1) or more funds or fund accounts in the Revenue Stabilization Law, § 19-5-101 et seq., or to the Economic Development Superprojects Project Fund, or both; and

(C) A statement certifying that no other funds are available that could be transferred in lieu of the funds in the Catastrophic Reserve Fund.

(3) Documentation under subdivision (e)(2) of this section shall be submitted to the Legislative Council or Joint Budget Committee for approval before the implementation of the proposed distribution.

(4)(A) The Chief Fiscal Officer of the State, after having sought and received prior approval of at least two-thirds ($\frac{2}{3}$) of the members of the Legislative Council or at least two-thirds ($\frac{2}{3}$) of the members of the Joint Budget Committee, shall cause the required transfers to be made on his or her books and on the books of the Treasurer of State and the Auditor of State from the Catastrophic Reserve Fund to the appropriate funds and fund accounts in the Revenue Stabilization Law, § 19-5-101 et seq., or to the Economic Development Superprojects Project Fund, or both.

(B) In no event shall the amounts transferred in any fiscal year to the funds and fund accounts in the Revenue Stabilization Law, § 19-5-101 et seq., by this section cause the general revenues to exceed the maximum allocations authorized in the Revenue Stabilization Law, § 19-5-101 et seq.

(f) Determining the maximum amount of appropriation and general revenue funding for a state agency each fiscal year is the prerogative of the General Assembly. This is usually accomplished by delineating such maximums in the appropriation acts for a state agency and the general revenue allocations authorized for each fund and fund account by amendment to the Revenue Stabilization Law, § 19-5-101 et seq. Further, the General Assembly has determined that creating the Catastrophic Reserve Fund and establishing the procedures for the transfer of funds to various funds and fund accounts in the Revenue Stabilization Law, § 19-5-101 et seq., or to the Economic Development Superprojects Project Fund, or both, provides for the efficient and effective operation of state government if a revenue shortfall is determined to exist. Therefore, it is both necessary and appropriate that the General Assembly maintain oversight by requiring prior approval of the Legislative Council or Joint Budget Committee as provided by this section. The requirement of approval by the Legislative Council or Joint

Budget Committee is not a severable part of this section. If the requirement of approval by the Legislative Council or Joint Budget Committee is ruled unconstitutional by a court of competent jurisdiction, this entire section is void.

History. Acts 2002 (1st Ex. Sess.), No. 2, § 1; 2007, No. 1055, §§ 1-4; 2016 (3rd Ex. Sess.), No. 1, § 15; 2017 (1st Ex. Sess.), No. 7, § 2; 2021 (2nd Ex. Sess.), No. 1, § 3; 2021 (2nd Ex. Sess.), No. 2, § 3; 2021 (2nd Ex. Sess.), No. 8, § 2; 2021 (2nd Ex. Sess.), No. 10, § 2.

A.C.R.C. Notes. Acts 2017 (1st Ex. Sess.), No. 7, § 1, provided: "Legislative findings. The General Assembly finds that:

"(1) The level of state financial reserves affects the state's credit rating, as a higher level of reserves will result in a better credit rating;

"(2) Arkansas scores low on financial reserves analyses, with the lack of adequate reserves negatively affecting the state's credit rating;

"(3) S&P Global Ratings gives the highest possible score, consistent with a AAA-rating, for states in which '[t]here is a formal budget-based reserve relative to revenue or spending that is above 8%';

"(4) S&P affirmed its 'AA' long-term rating to Arkansas's series 2016 taxable refunding higher education general obligation bonds and noted, 'The state lacks a formal reserve and liquidity policy . . .' but also noted that the State of Arkansas has formed a funding strategy for the state's Long Term Reserve Fund;

"(5) A funded reserve fund and a higher credit rating will save the state money;

"(6) Arkansas currently has approximately one billion five hundred million dollars (\$1,500,000,000) in outstanding general obligation debt;

"(7) An improvement in the state's credit rating from AA to AAA would allow the state to borrow money at twelve (12) to fifteen (15) basis points below the current AA-rate, potentially saving the state one million eight hundred thousand dollars (\$1,800,000) per year in interest costs; and

"(8) In addition to financial benefits from a higher credit rating, there are numerous qualitative benefits, including the increased appeal of a higher credit rating to potential new industries, which will assist the state in pursuing the im-

portant goal of recruiting industry to our state."

Acts 2017 (1st Ex. Sess.), No. 7, § 4, provided: "Transfer from the Arkansas Healthy Century Trust Fund. Immediately upon the effective date of this act [May 4, 2017], or as soon as is practicable after the effective date of this act, the Chief Fiscal Officer of the State shall transfer on his or her books and the books of the Treasurer of State and the Auditor of State the balance of the Arkansas Healthy Century Trust Fund to the Long Term Reserve Fund."

Acts 2021, No. 1058, § 3, provided: "RESTRICTED RESERVE FUND DISTRIBUTION AND SET-ASIDES.

"(a) After having transferred or set-aside the obligations as set out in § 19-5-202(b)(2)(B)(iii) as determined by the Chief Fiscal Officer of the State, those funds transferred and credited to the Restricted Reserve Fund as authorized in Section 2 of this Act and any current unobligated balances in the Restricted Reserve Fund, the State Treasurer shall first set-aside one hundred seventy one million four hundred and five thousand dollars (\$171,405,000) for the 'Restricted Reserve Fund Set-Asides' as enumerated in subsections (a)(1) through (a)(3) of this section, with the exception of (a)(3)(B) Quick Action Closing Fund Carry Forward Set-Aside funds to be made available as authorized in Section 2(a)(3) of this Act.

"(1) Notwithstanding other provisions of law as set out in 19-5-1263(c) the Set-Asides authorized in subsections (a)(1)(A) and (B) herein shall require prior approval of the greater of three-fifths (3/5) of the quorum present or a majority of the membership by the Legislative Council during the extended recess, beginning on May 1, 2021, of the 2021 Regular Session or during the interim, or the Joint Budget Committee during a regular session, fiscal session, or extraordinary session of the General Assembly in the vote for the disbursements;

"(A) Executive/Legislative 3/5 Vote Set-Aside. For transfers from time to time as determined by the Chief Fiscal Officer of

the State, in a sum not to exceed \$133,500,000;

“(B) State Police Vehicles 3/5 Vote Set-Aside. For transfers from time to time as determined by the Chief Fiscal Officer of the State for the Division of State Police Fund for State Police Vehicles, in a sum not to exceed \$3,000,000.

“(2) Notwithstanding other provisions of law as set out in 19-5-1263(c) the Unallocated Restricted Reserve Majority Vote Set-Aside authorized in subsections (a)(2)(A) herein shall only require a majority affirmative vote as set out in the rules of the Legislative Council during the extended recess, beginning on May 1, 2021, of the 2021 Regular Session or during the interim, or the Joint Budget Committee during a regular session, fiscal session, or extraordinary session of the General Assembly for prior approval of the disbursement;

“(A) Unallocated Restricted Reserve Majority Vote Set-Aside. For transfers from time to time as determined by the Chief Fiscal Officer of the State, in a sum not to exceed \$15,000,000.

“(3) Notwithstanding other provisions of law the Set-Asides authorized in subsections (a)(3)(A) through (C) herein shall not be subject to the approval requirements set out 19-5-1263(c) and shall only require reporting of the date and amount of transfers;

“(A) Economic Stimulus Programs Set-Aside. For transfers from time to time to the Department of Commerce Arkansas Economic Development Commission to fund or fund accounts as determined by the Chief Fiscal Officer of the State for funding for economic stimulus activities throughout the state, in a sum not to exceed \$5,800,000;

“(B) Quick Action Closing Fund Carry Forward Set-Aside. To the Economic Development Incentive Quick Action Closing Fund, for incentives to attract new business and economic development to the state, for transfers from time to time from funds made available as authorized in Section 2(a)(3) of this Act;

“(C) Department of Correction Lease Payments Set-Aside. For the Department of Correction to the Development and Enhancement Fund or its successor fund or fund accounts or any appropriation authorized by the General Assembly for the Department of Correction debt service

payments, in a sum not to exceed \$14,105,000.

“(b) The next ten million dollars (\$10,000,000) shall be transferred to the Rainy Day Fund. This transfer to the Rainy Day Fund shall not be subject to the approval requirements set out 19-5-1263(c), however after the funds are transferred to the Rainy Day Fund those funds shall be subject to any requirements set out in law for Rainy Day Fund distributions for reporting or prior approval by the Legislative Council during the extended recess, beginning on May 1, 2021, of the 2021 Regular Session or during the interim, or the Joint Budget Committee during a regular session, fiscal session, or extraordinary session of the General Assembly.

“(c) Then all remaining unobligated funds not set-aside, that are transferred or credited to the Restricted Reserve Fund and any future collections, deposits and transfers authorized in Section 2 of this Act shall be transferred and credited to the Long Term Reserve Fund.

“(d) On July 1, 2023 any unobligated funds remaining in the Restricted Reserve Fund Set-Asides established in subsection (a) herein shall be transferred to the Long Term Reserve Fund.”

Acts 2021, No. 1058, § 5, provided: “Effective Date. Section 4 of this act [repealing § 19-5-1262] is effective on and after December 31, 2022 and any remaining unobligated balances in the Rainy Day Fund shall be transferred to the Long Term Reserve Fund at that time.”

Identical Acts 2021 (2nd Ex. Sess.), Nos. 8 and 10, § 3, provided: “ECONOMIC DEVELOPMENT ONE-TIME FUNDING TRANSFER.

“(a) Notwithstanding any other provisions of law, the Chief Fiscal Officer of the State may transfer from time to time as funds are determined to be available by the Chief Fiscal Officer of the State, on his or her books and those of the State Treasurer and the Auditor of the State, a sum not to exceed fifty million dollars (\$50,000,000) from the Long Term Reserve Fund or its successor fund or fund accounts to the General Revenue Allotment Reserve Fund.

“(b) Once the Chief Fiscal Officer of the State determines funding for the economic development investment incentives is needed, the Chief Fiscal Officer of the

State may transfer on his or her books and those of the State Treasurer and the Auditor of the State an amount not to exceed fifty million dollars (\$50,000,000) from the General Revenue Allotment Reserve Fund to the Economic Development Incentive Quick Action Closing Fund for economic development investment incentives applicable to a qualified manufacturer of steel as defined in A.C.A. § 26-51-1211.

"The provisions of this section shall be effective from the date of passage and approval and shall expire on March 31, 2022."

Amendments. The 2017 (1st Ex. Sess.) amendment in the second sentence of (d)(1), inserted "a vote of at least two-thirds (⅔) of the members of" and "at least two-thirds (⅔) of the members of the"; in (d)(2) and the second sentence of (e)(3), inserted "at least two-thirds (⅔) of the

members of" and "at least two-thirds (⅔) of the members of the"; and, in (g), substituted "shall" for "may" and deleted the second sentence.

The 2021 (2nd Ex. Sess.) amendment by identical acts Nos. 1 and 2 substituted "Catastrophic" for "Long Term" throughout the section; substituted "the Chief Fiscal Officer of the State" for "he or she" preceding "may then" in the second sentence of (d)(1); substituted "under this section" for "set out herein" in (e)(1); substituted "from the Catastrophic Reserve Fund" for "long term reserve funds" in (e)(2)(A); substituted "Documentation under subdivision (e)(2) of this section" for "Such documentation" in (e)(3); redesignated part of (e)(3) as (e)(4)(A) and (B); and deleted (g).

The 2021 (2nd Ex. Sess.) amendment by identical acts Nos. 8 and 10 added (d)(3).

CHAPTER 10

CLAIMS AGAINST THE STATE

SUBCHAPTER 3 — EFFECT OF INSURANCE COVERAGE

19-10-305. Immunity of state officers and employees — Status as employee.

CASE NOTES

Malicious Conduct.

Federal district court properly dismissed plaintiff's claims under the Arkansas Civil Rights Act, § 16-123-101 et seq., because plaintiff failed to present evidence that the officer's conduct in arresting plaintiff for disorderly conduct after plaintiff yelled an expletive at him from a moving vehicle was "malicious" under this section. *Thurairajah v. City of Fort Smith*, 3 F.4th 1017 (8th Cir. 2021).

In taxpayers' action challenging various actions of the Arkansas Attorney General, such as legal filings in out-of-state litigation,

spending public funds on certain TV commercials, and partisan activities, the circuit court should have summarily dismissed the individual capacity claim against the Attorney General because plaintiffs failed to meet their pleading burden to surmount statutory immunity. Plaintiffs did not allege that the Attorney General, in her individual capacity, acted with intent and disposition to do a wrongful act greatly injurious to another, in other words, malice. *Rutledge v. Rummel*, 2022 Ark. 86, 643 S.W.3d 5 (2022).

CHAPTER 11

PURCHASING AND CONTRACTS

SUBCHAPTER 2 — ARKANSAS PROCUREMENT LAW

19-11-258. Contract controversies.

RESEARCH REFERENCES

ALR. Standing of Labor Unions, Labor Management Committee, or Trade Association to Bring Action Under State Law

Governing Public Contracts. 59 A.L.R.7th Art. 4 (2021).

TITLE 20

PUBLIC HEALTH AND WELFARE

SUBTITLE 5. SOCIAL SERVICES

CHAPTER.

77. MEDICAL ASSISTANCE.

SUBTITLE 2. HEALTH AND SAFETY

CHAPTER 9

HEALTH FACILITIES AND SERVICES GENERALLY

SUBCHAPTER 15 — ARKANSAS SAVE ADOLESCENTS FROM EXPERIMENTATION (SAFE) ACT

20-9-1501. Definitions.

CASE NOTES

Constitutionality.

Plaintiffs, minors, their parents, and their healthcare providers, had standing under the Equal Protection Clause to challenge Acts 2021, No. 626, codified at §§ 20-9-1501 to 20-9-1504 and 23-79-166, which prohibited a physician or other healthcare provider from providing or referring any individual under age 18 for gender transition procedures; enforcement of the Act was enjoined during the

pendency of the litigation because plaintiffs were likely to succeed on the merits of the claim that the Act violated the Equal Protection Clause, the Due Process Clause, and the First Amendment, and plaintiffs had shown that they would suffer irreparable harm if the Act was not enjoined. *Brandt v. Rutledge*, 551 F. Supp. 3d 882 (E.D. Ark. 2021), *aff'd*, 2022 U.S. App. LEXIS 23888 (8th Cir. Ark. Aug. 25, 2022).

20-9-1502. Prohibition of gender transition procedures for minors.

CASE NOTES

Constitutionality.

Plaintiffs, minors, their parents, and their healthcare providers, had standing under the Equal Protection Clause to challenge Acts 2021, No. 626, codified at §§ 20-9-1501 to 20-9-1504 and 23-79-166, which prohibited a physician or other healthcare provider from providing or referring any individual under age 18 for gender transition procedures; enforcement of the Act was enjoined during the

pendency of the litigation because plaintiffs were likely to succeed on the merits of the claim that the Act violated the Equal Protection Clause, the Due Process Clause, and the First Amendment, and plaintiffs had shown that they would suffer irreparable harm if the Act was not enjoined. *Brandt v. Rutledge*, 551 F. Supp. 3d 882 (E.D. Ark. 2021), *aff'd*, 2022 U.S. App. LEXIS 23888 (8th Cir. Ark. Aug. 25, 2022).

20-9-1503. Prohibition on use of public funds for gender transition procedures.

CASE NOTES

Constitutionality.

Plaintiffs, minors, their parents, and their healthcare providers, had standing under the Equal Protection Clause to challenge Acts 2021, No. 626, codified at §§ 20-9-1501 to 20-9-1504 and 23-79-166, which prohibited a physician or other healthcare provider from providing or referring any individual under age 18 for gender transition procedures; enforcement of the Act was enjoined during the

pendency of the litigation because plaintiffs were likely to succeed on the merits of the claim that the Act violated the Equal Protection Clause, the Due Process Clause, and the First Amendment, and plaintiffs had shown that they would suffer irreparable harm if the Act was not enjoined. *Brandt v. Rutledge*, 551 F. Supp. 3d 882 (E.D. Ark. 2021), *aff'd*, 2022 U.S. App. LEXIS 23888 (8th Cir. Ark. Aug. 25, 2022).

20-9-1504. Enforcement.

CASE NOTES

Constitutionality.

Plaintiffs, minors, their parents, and their healthcare providers, had standing under the Equal Protection Clause to challenge Acts 2021, No. 626, codified at §§ 20-9-1501 to 20-9-1504 and 23-79-166, which prohibited a physician or other healthcare provider from providing or referring any individual under age 18 for gender transition procedures; enforcement of the Act was enjoined during the

pendency of the litigation because plaintiffs were likely to succeed on the merits of the claim that the Act violated the Equal Protection Clause, the Due Process Clause, and the First Amendment, and plaintiffs had shown that they would suffer irreparable harm if the Act was not enjoined. *Brandt v. Rutledge*, 551 F. Supp. 3d 882 (E.D. Ark. 2021), *aff'd*, 2022 U.S. App. LEXIS 23888 (8th Cir. Ark. Aug. 25, 2022).

CHAPTER 10

LONG-TERM CARE FACILITIES AND SERVICES

SUBCHAPTER 2 — OFFICE OF LONG-TERM CARE

20-10-212. Appeal from denial, suspension, or revocation of license.

CASE NOTES

Mootness.

Judicial review of the denial by the Department of Human Services of change-of-ownership applications for the transfer of operational control, ownership, and licensure of skilled nursing facilities was rendered moot because a change of ownership of the facilities was no longer pos-

sible to be completed as the owner of the licenses unilaterally closed the facilities and voluntarily surrendered the owner's long-term care licenses for them. *Hemp Health, LLC v. Ark. Dep't of Human Servs.*, 2022 Ark. App. 193, 644 S.W.3d 829 (2022).

SUBCHAPTER 12 — PROTECTION OF LONG-TERM CARE FACILITY RESIDENTS

20-10-1209. Civil enforcement.

CASE NOTES

Construction.

Circuit court erred in granting a rehabilitation facility a directed verdict on an estate administrator's claim under the Protection of Long-Term Care Facility Residents Act because the 2013 amendment adding subsection (d) of this section could not be applied retroactively, a resident's-rights claim and a negligence claim were separate and distinct causes of ac-

tion that compensated the administrator for different injuries, and allowing both claims to proceed would not have resulted in a double recovery, and applying retroactivity to the administrator's claim would clearly disturb vested rights and create new obligations. *Cauffiel v. Progressive Eldercare Services-Saline, Inc.*, 2021 Ark. App. 314, 635 S.W.3d 1 (2021).

CHAPTER 14

INDIVIDUALS WITH DISABILITIES

SUBCHAPTER 3 — RIGHTS GENERALLY

20-14-304. Right to be accompanied by service animal — Penalty and restitution for killing or injuring a service animal or search and rescue dog — Definition.

RESEARCH REFERENCES

ALR. Service Animals Under Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq. 53 A.L.R. Fed. 3d Art. 1

(2020).

Inquiry into and Requirement of Proof of Training or Certification of Service Ani-

mals Under Americans with Disabilities Federal Statutes and Regulations. 68 Act, 42 U.S.C. §§ 12101 et seq., and Other A.L.R. Fed. 3d Art. 5 (2022).

20-14-310. Misrepresentation as a service animal — Civil penalty.

RESEARCH REFERENCES

ALR. Service Animals Under Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq. 53 A.L.R. Fed. 3d Art. 1 (2020).
Inquiry into and Requirement of Proof of Training or Certification of Service Animals Under Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq., and Other Federal Statutes and Regulations. 68 A.L.R. Fed. 3d Art. 5 (2022).

CHAPTER 16

REPRODUCTIVE HEALTH

SUBCHAPTER 18 — ARKANSAS UNBORN CHILD PROTECTION FROM DISMEMBERMENT ABORTION ACT

20-16-1801. Title.

CASE NOTES

Constitutionality.

Defendants were preliminarily enjoined from enforcing as to plaintiffs, a physician and an abortion clinic, the provisions of Acts 2017, No. 45 (codified as §§ 20-16-1801 to 20-16-1807, the Arkansas Unborn Child Protection from Dismemberment Abortion Act) referred to as the “D&E

Mandate”; the plaintiffs were likely to prevail on the merits of their claims that the law placed an undue and unconstitutional burden on women seeking a pre-viability abortion. *Hopkins v. Jegley*, 510 F. Supp. 3d 638 (E.D. Ark. 2021), dismissed without prejudice, 2022 U.S. Dist. LEXIS 124137 (E.D. Ark., July 13, 2022).

20-16-1802. Definitions.

CASE NOTES

Constitutionality.

Defendants were preliminarily enjoined from enforcing as to plaintiffs, a physician and an abortion clinic, the provisions of

Acts 2017, No. 45 (codified as §§ 20-16-1801 to 20-16-1807, the Arkansas Unborn Child Protection from Dismemberment Abortion Act) referred to as the “D&E

Mandate”; the plaintiffs were likely to prevail on the merits of their claims that the law placed an undue and unconstitutional burden on women seeking a pre-

viability abortion. *Hopkins v. Jegley*, 510 F. Supp. 3d 638 (E.D. Ark. 2021), dismissed without prejudice, 2022 U.S. Dist. LEXIS 124137 (E.D. Ark., July 13, 2022).

20-16-1803. Ban on dismemberment abortion.

CASE NOTES

Constitutionality.

Defendants were preliminarily enjoined from enforcing as to plaintiffs, a physician and an abortion clinic, the provisions of Acts 2017, No. 45 (codified as §§ 20-16-1801 to 20-16-1807, the Arkansas Unborn Child Protection from Dismemberment Abortion Act) referred to as the “D&E

Mandate”; the plaintiffs were likely to prevail on the merits of their claims that the law placed an undue and unconstitutional burden on women seeking a pre-viability abortion. *Hopkins v. Jegley*, 510 F. Supp. 3d 638 (E.D. Ark. 2021), dismissed without prejudice, 2022 U.S. Dist. LEXIS 124137 (E.D. Ark., July 13, 2022).

SUBCHAPTER 19 — SEX DISCRIMINATION BY ABORTION PROHIBITION ACT

20-16-1901. Title.

CASE NOTES

Constitutionality.

Defendants were preliminarily enjoined from enforcing the provisions of Acts 2017, No. 733 referred to as the “Medical Records Mandate” (see § 20-16-1904(b)(2)), because plaintiffs, a physician and an abortion clinic, were likely to succeed on the claim that the Mandate was unconsti-

tutionally vague, and created a substantial obstacle for a large fraction of women seeking an abortion of a nonviable fetus for whom the Mandate was relevant. *Hopkins v. Jegley*, 510 F. Supp. 3d 638 (E.D. Ark. 2021), dismissed without prejudice, 2022 U.S. Dist. LEXIS 124137 (E.D. Ark., July 13, 2022).

20-16-1904. Prohibition — Sex-selection abortion.

CASE NOTES

Constitutionality.

Defendants were preliminarily enjoined from enforcing the provisions of Acts 2017, No. 733 referred to as the “Medical Records Mandate” (see subsection (b)(2) of this section), because plaintiffs, a physician and an abortion clinic, were likely to succeed on the claim that the Mandate

was unconstitutionally vague, and created a substantial obstacle for a large fraction of the women seeking an abortion of a nonviable fetus for whom the Mandate was relevant. *Hopkins v. Jegley*, 510 F. Supp. 3d 638 (E.D. Ark. 2021), dismissed without prejudice, 2022 U.S. Dist. LEXIS 124137 (E.D. Ark., July 13, 2022).

CHAPTER 17

DEATH AND DISPOSITION OF THE DEAD

SUBCHAPTER 8 — DISPOSITION OF HUMAN TISSUE

20-17-801. Fetus and tissue generally — Definitions.

CASE NOTES

Constitutionality.

Defendants were preliminarily enjoined from enforcing the provisions of Acts 2017, No. 603, which amended this section and § 20-17-802, referred to in this federal case as the Tissue Disposal Mandate, because the claim that the Mandate was

vague such that it unconstitutionally deprived plaintiffs, a physician and an abortion clinic, of their due process rights was likely to succeed. *Hopkins v. Jegley*, 510 F. Supp. 3d 638 (E.D. Ark. 2021), dismissed without prejudice, 2022 U.S. Dist. LEXIS 124137 (E.D. Ark., July 13, 2022).

20-17-802. Fetal remains resulting from abortion.

CASE NOTES

Constitutionality.

Defendants were preliminarily enjoined from enforcing the provisions of Acts 2017, No. 603, which amended this section and § 20-17-801, referred to in this federal case as the Tissue Disposal Mandate, because the claim that the Mandate was

vague such that it unconstitutionally deprived plaintiffs, a physician and an abortion clinic, of their due process rights was likely to succeed. *Hopkins v. Jegley*, 510 F. Supp. 3d 638 (E.D. Ark. 2021), dismissed without prejudice, 2022 U.S. Dist. LEXIS 124137 (E.D. Ark., July 13, 2022).

SUBTITLE 5. SOCIAL SERVICES

CHAPTER 77

MEDICAL ASSISTANCE

SUBCHAPTER.

17. MEDICAID FAIRNESS ACT.

SUBCHAPTER 17 — MEDICAID FAIRNESS ACT

SECTION.

20-77-1717. Timelines for audits.

20-77-1704. Provider administrative appeals allowed.

CASE NOTES

Service of Petition for Judicial Review.

Section 25-15-212(b)(2) of the Administrative Procedure Act required the Department of Human Services (DHS) to

serve its petition for judicial review not only on the provider but also on the Department of Health, which conducted the administrative appeal and issued the decision in favor of the provider and against

DHS, which administers the Arkansas Medicaid program. In this section, the Medicaid Fairness Act assigns to the Department of Health the duty to conduct Medicaid provider administrative appeals, and the circuit court did not err by

dismissing DHS's petition for review for failure to serve it on the Department of Health. Ark. Dep't of Human Servs. v. Northwest Health Sys., 2022 Ark. App. 98 (2022).

20-77-1717. Timelines for audits.

(a) If a Medicaid provider audit by the Medicaid Integrity Program or Audit Medicaid Integrity Contractors is conducted, the Department of Human Services or the contractor shall provide the audit report to the provider within one hundred fifty (150) days after the completion of the audit field work.

(b) If a provider requests an administrative reconsideration of an audit finding or report, the department shall provide the results of the reconsideration within sixty (60) days after the department's receipt of the request for reconsideration.

(c) Additional provider records furnished by a provider in conjunction with a provider's request for administrative reconsideration shall have been contemporaneously created.

(d) If there is a failure to meet the timelines specified in this section, no adverse decision based on the noncompliant audit shall be enforced against the provider unless the department shows good cause for the failure to meet the timelines.

History. Acts 2013, No. 562, § 7.

Publisher's Notes. This section is being set out to reflect a correction in (a).

TITLE 21

PUBLIC OFFICERS AND EMPLOYEES

CHAPTER 1

GENERAL PROVISIONS

SUBCHAPTER 6 — ARKANSAS WHISTLE-BLOWER ACT

21-1-603. Public employer conduct prohibited — Good faith

communication.

RESEARCH REFERENCES

ALR. Protected Activity Under Whistleblower Provision of Surface Transportation Act, 49 U.S.C. § 31105(a). 59 A.L.R. Fed. 3d Art. 4 (2021).

21-1-604. Civil liability — Definition.

RESEARCH REFERENCES

ALR. Protected Activity Under Whistleblower Provision of Surface Transportation Act, 49 U.S.C. § 31105(a). 59 A.L.R. Fed. 3d Art. 4 (2021).

CHAPTER 9

LIABILITY OF STATE AND LOCAL GOVERNMENTS

SUBCHAPTER 3 — LIABILITY OF POLITICAL SUBDIVISIONS

21-9-301. Tort liability — Immunity declared.

CASE NOTES

ANALYSIS

Insurance Coverage.
Negligence.

Insurance Coverage.

City and officials were entitled to municipal immunity, and summary judgment in their favor was proper, because a mayor's affidavit was sufficient proof to establish that a city did not have insurance coverage to provide coverage for the administrator's negligence claims; a plain reading of this section provides immunity from torts for municipalities except to the extent that they may be covered by liability insurance. *Sledge v. City of Pine Bluff*, 2022 Ark. App. 23 (2022).

Negligence.

When a property owner filed a complaint against a city, after the owner suffered damages to the owner's property due to sewage backflow amounts, this section, the tort immunity statute, was applicable because the owner's claim sounded in negligence, rather than an improper taking as the owner alleged. Therefore, because the city put forth proof that the city did not have insurance for the negligence claim alleged by the owner, the city was entitled to statutory immunity. *City of McCrory v. Wilson*, 2022 Ark. App. 200, 644 S.W.3d 823 (2022).

TITLE 23

**PUBLIC UTILITIES AND REGULATED
INDUSTRIES**

SUBTITLE 1. PUBLIC UTILITIES AND CARRIERS

**CHAPTER 15
PIPELINE COMPANIES**

SUBCHAPTER 1 — GENERAL PROVISIONS

23-15-101. Common carriers — Eminent domain.

RESEARCH REFERENCES

ALR. Eminent Domain: Energy-Related Projects as Public Use Under State Law — 21st Century Cases. 69 A.L.R.7th Art. 5 (2022).

**CHAPTER 18
LIGHT, HEAT, AND POWER UTILITIES**

**SUBCHAPTER 9 — ARKANSAS ELECTRIC UTILITY AND GAS UTILITY STORM
RECOVERY SECURITIZATION ACT**

23-18-906. Sale.

RESEARCH REFERENCES

ALR. Disregard of Separate Existence of Corporations Under Single Business Enterprise Theory. 50 A.L.R.7th Art. 2 (2020).

SUBTITLE 3. INSURANCE**CHAPTER 69****DOMESTIC STOCK AND MUTUAL INSURERS****SUBCHAPTER 2 — STOCK INSURERS — INSIDER TRADING**

23-69-205. Prevention of unfair use of information by owners, directors, or officers.

RESEARCH REFERENCES

ALR. Requirement that Recipient of Tip from Insider Have Knowledge that Insider Benefited from Providing Tip for Liability To Attach Under Dirks v. S.E.C. 52 A.L.R. Fed. 3d Art. 4 (2020).

CHAPTER 79**INSURANCE POLICIES GENERALLY****SUBCHAPTER 1 — GENERAL PROVISIONS**

23-79-126. Forms for proof of loss.

CASE NOTES**Intentional Misrepresentation.**

In a homeowners' insurance coverage dispute, the appellate court upheld the lower court's holding that the insured made intentional and material misrepresentations concerning the amount of personal property he owned after his home was destroyed by fire, based on the much

smaller amount the insured claimed in bankruptcy proceedings; the fact that the insurer did not timely provide proof-of-loss forms to the insured as required by this section did not immunize the insured from the consequences of his own lies under the policy. *Merechka v. Vigilant Ins. Co.*, 26 F.4th 776 (8th Cir. 2022).

23-79-166. Insurance coverage of gender transition procedures for minors prohibited.

CASE NOTES**Constitutionality.**

Plaintiffs, minors, their parents, and their healthcare providers, had standing under the Equal Protection Clause to challenge Acts 2021, No. 626, codified at §§ 20-9-1501 to 20-9-1504 and 23-79-166, which prohibited a physician or other healthcare provider from providing or referring any individual under age 18 for gender transition procedures; enforcement of the Act was enjoined during the

pendency of the litigation because plaintiffs were likely to succeed on the merits of the claim that the Act violated the Equal Protection Clause, the Due Process Clause, and the First Amendment, and plaintiffs had shown that they would suffer irreparable harm if the Act was not enjoined. *Brandt v. Rutledge*, 551 F. Supp. 3d 882 (E.D. Ark. 2021), *aff'd*, 2022 U.S. App. LEXIS 23888 (8th Cir. Ark. Aug. 25, 2022).

SUBCHAPTER 2 — SUITS AGAINST INSURERS**23-79-208. Damages and attorney's fees on loss claims.****CASE NOTES**

Cited: *West v. Shelter Mut. Ins. Co.*,
2022 Ark. App. 38, 640 S.W.3d 657 (2022).

CHAPTER 88**PROPERTY INSURANCE****SUBCHAPTER 1 — GENERAL PROVISIONS****23-88-101. Valued policy law.****CASE NOTES****Fraud, Misrepresentations, Etc.**

In a homeowners' insurance coverage dispute, where the appellate court upheld the lower court's holding that the insured made intentional and material misrepresentations concerning the amount of personal property he owned after his home was destroyed by fire, based on the much smaller amount the insured claimed in bankruptcy proceedings, this section, the

valued-policy law, did not shield the fraud. Once the insured lied on the proof-of-loss forms, it voided the policy altogether; despite the insured's argument that the policy was divisible, all signs pointed to the indivisibility of the policy and the insured's misrepresentations voided the whole policy, not just a part of it. *Merechka v. Vigilant Ins. Co.*, 26 F.4th 776 (8th Cir. 2022).

CHAPTER 89**CASUALTY INSURANCE****SUBCHAPTER 1 — GENERAL PROVISIONS****23-89-101. Subrogation of injured person to right of insured.****CASE NOTES****Insured Party.**

Where the circuit court granted summary judgment to the insurer in injured plaintiff's action under this section alleging that the driver of the other vehicle (named insured's adult son) was an insured under a liability policy, the insurer did not rescind the policy contrary to § 23-89-303 but instead canceled the policy at the request of the named insured

shortly after the accident; furthermore, the insurer expressly denied coverage for the claim because, under the policy definitions, the named insured mother was not an insured and the vehicle was not an insured vehicle as the named insured's adult son was the actual owner of the vehicle. *West v. Shelter Mut. Ins. Co.*, 2022 Ark. App. 38, 640 S.W.3d 657 (2022).

SUBCHAPTER 2 — AUTOMOBILE LIABILITY INSURANCE GENERALLY**23-89-204. Coverage for passengers and persons struck by insured vehicle.****RESEARCH REFERENCES**

ALR. Personal Injuries Inflicted or Caused by Animal as Within Homeowner's or Personal Liability Policy. 51 A.L.R.7th Art. 3 (2020).

SUBCHAPTER 3 — AUTOMOBILE LIABILITY INSURANCE — CANCELLATION AND NONRENEWAL**23-89-303. Grounds for cancellation.****CASE NOTES****Fraud.**

Where the circuit court granted summary judgment to the insurer in injured plaintiff's action under § 23-89-101 alleging that the driver of the other vehicle (named insured's adult son) was an insured under a liability policy, the insurer did not rescind the policy contrary to subsection (d) of this section but instead canceled the policy at the request of the

named insured shortly after the accident; furthermore, the insurer expressly denied coverage for the claim because, under the policy definitions, the named insured mother was not an insured and the vehicle was not an insured vehicle as the named insured's adult son was the actual owner of the vehicle. *West v. Shelter Mut. Ins. Co.*, 2022 Ark. App. 38, 640 S.W.3d 657 (2022).

SUBCHAPTER 4 — UNINSURED MOTORIST COVERAGE**23-89-401. Definition.****RESEARCH REFERENCES**

ALR. Operation or Use of Vehicle Outside Scope of Permission as Rendering It Uninsured Within Meaning of Uninsured Motorist Coverage. 54 A.L.R.7th Art. 5 (2020).

CHAPTER 92**MULTIPLE EMPLOYER TRUSTS AND SELF-INSURED PLANS****SUBCHAPTER 4 — ARKANSAS PROFESSIONAL EMPLOYER ORGANIZATION RECOGNITION AND LICENSING ACT****RESEARCH REFERENCES**

ALR. State Statutes Governing Professional Employer Organizations or Employee Leasing Companies. 50 A.L.R.7th Art. 4 (2020).

23-92-404. Licensing and renewal.

RESEARCH REFERENCES

ALR. State Statutes Governing Profes-

sional Employer Organizations or Em-

ployee Leasing Companies. 50 A.L.R.7th

Art. 4 (2020).

23-92-411. Deceptive practices.

RESEARCH REFERENCES

ALR. State Statutes Governing Profes-

sional Employer Organizations or Em-

ployee Leasing Companies. 50 A.L.R.7th

Art. 4 (2020).

23-92-412. Penalties.

RESEARCH REFERENCES

ALR. State Statutes Governing Profes-

sional Employer Organizations or Em-

ployee Leasing Companies. 50 A.L.R.7th

Art. 4 (2020).

SUBTITLE 4. MISCELLANEOUS REGULATED
INDUSTRIES

CHAPTER 112

ARKANSAS MOTOR VEHICLE COMMISSION ACT

SUBCHAPTER 1 — GENERAL PROVISIONS

23-112-102. Legislative findings — Purpose.

CASE NOTES

Cited: Crain Family Holdings, LLC v.
Ford Motor Co., 2021 Ark. App. 361, 635
S.W.3d 346 (2021).

SUBCHAPTER 4 — UNLAWFUL PRACTICES

23-112-403. Manufacturers, distributors, second-stage manufacturers, importers, or converters — Definition.

CASE NOTES

ANALYSIS

Construction.
Sale.

Construction.

The legislative intent expresses the need to oversee the manufacturer-dealer-ship relationship, and this section provides protections from manufacturers for motor vehicle dealers, not prospective purchasers; this section does not contain a provision specifically prohibiting a contractual right of first refusal. *Crain Family Holdings, LLC v. Ford Motor Co.*, 2021 Ark. App. 361, 635 S.W.3d 346 (2021).

Sale.

Arkansas Motor Vehicle Commission erred by finding that a car manufacturer violated subdivision (a)(2)(I)(i) of this section when it exercised its right of first refusal in its contract with a car dealership, and thus the circuit court properly reversed the decision; the manufacturer did not prohibit the car dealership from selling its dealership, but in exercising its contractual right of first refusal, the manufacturer merely prevented the purchaser from buying the dealership. *Crain Family Holdings, LLC v. Ford Motor Co.*, 2021 Ark. App. 361, 635 S.W.3d 346 (2021).

CHAPTER 117

CASINO GAMING

23-117-101. Letter of support for casino applicant.

CASE NOTES

Constitutionality.

Circuit court erred by granting summary judgment for the casino applicant after finding that an administrative code provision and subsection (b) of this section (requiring that letters of support must be from the county judge holding office at the time the application is submitted) imposed an additional requirement on applicants not contained in Ark. Const. Amend. 100; the plain language of Ark. Const. Amend. 100, § 4(n), in using the definite

article “the” preceding “county judge”, indicates a specific, definite judge, the current county judge — not a former county judge or retired county judge because those are not “the” county judge. Thus, the administrative code provision and subsection (b) of this section are consistent with Amendment 100 and do not impose an additional requirement. *Cherokee Bus., LLC v. Gulfside Casino P’ship*, 2021 Ark. 183, 632 S.W.3d 284 (2021).

TITLE 24

RETIREMENT AND PENSIONS

CHAPTER.

7. RETIREMENT OF EMPLOYEES OF SCHOOLS AND EDUCATIONAL INSTITUTIONS.
10. ARKANSAS LOCAL POLICE AND FIRE RETIREMENT SYSTEM.

CHAPTER 7**RETIREMENT OF EMPLOYEES OF SCHOOLS AND
EDUCATIONAL INSTITUTIONS**

SUBCHAPTER.

2. ARKANSAS TEACHER RETIREMENT SYSTEM — GENERAL PROVISIONS.**SUBCHAPTER 2 — ARKANSAS TEACHER RETIREMENT SYSTEM — GENERAL
PROVISIONS**

SECTION.

24-7-202. Definitions.**24-7-202. Definitions.**

As used in this act:

(1) "Accumulated contributions" means the total of all amounts contributed by a member credited to the member's deposit account, together with regular interest;

(2) "Active member" means any member eligible for service credit rendering service to an employer that is covered by the Arkansas Teacher Retirement System;

(3) "Actual service" means service rendered in a position covered by the Arkansas Teacher Retirement System and does not include purchased or free credited service or reciprocal service;

(4) "Actuarial equivalent" means a benefit of equal reserve value when reserve is the present value of all payment to be made on account of any benefit based upon such reasonable rate of interest and table of experience as a plan shall adopt from time to time;

(5) "Administrator" means:

(A) A person who is:

(i) Employed by an education-related agency that participates in the Arkansas Teacher Retirement System; and

(ii) An active member employed in a position that is a grade GS13, a grade above a GS13, or the equivalent of a grade GS13; or

(B) A person who is:

(i) Employed by an employer of the Arkansas Teacher Retirement System; and

(ii) Any one (1) of the following:

(a) A public school superintendent, assistant superintendent, principal, or vice principal;

(b) A president, chancellor, or a director of an institution of higher education; or

(c) A president, vice president, or a director of a community college vocational, technical, or educational cooperative;

(6) "Alternate retirement plan" means a retirement plan based on the purchase of contracts providing retirement and death benefits for employees under § 24-7-801 et seq. or § 24-7-901 et seq.;

(7) "Annuity" means an amount payable to a retirant each fiscal year by the Arkansas Teacher Retirement System in equal monthly installments;

(8) "Arkansas Teacher Retirement System" means a governmental state agency created in 1973 and administered under Acts 1973, No. 427, as amended, to provide a system of retirement benefits to its members and includes a limited liability company or other corporate entity solely owned by the system;

(9) "Beneficiary" means any person who is receiving or is designated by a member to receive an Arkansas Teacher Retirement System benefit;

(10)(A) "Benefit participant" means a person or entity that receives or may receive any kind of benefit, annuity, or other payment from the system due to a member's participation in the system.

(B) "Benefit participant" includes without limitation:

(i) A member;

(ii) A spouse or a member;

(iii) A survivor;

(iv) A residual beneficiary;

(v) A death beneficiary;

(vi) A former spouse of a member; and

(vii) The estate of a member;

(11) "Benefit program" means a schedule of benefits or benefit formulas from which the amounts of Arkansas Teacher Retirement System benefits can be determined;

(12) "Board" means the Board of Trustees of the Arkansas Teacher Retirement System;

(13) "Child of a member" means either a natural child of the member or a child who has been made a child of the member by applicable court action before the death of the member;

(14) "Credited service" means service which is creditable as service by the Arkansas Teacher Retirement System;

(15) "Deferred member" means an inactive member who is eligible to receive benefits under § 24-7-707;

(16) "De minimis amount" means an amount of money so small as to make accounting for it unreasonable or impractical;

(17)(A) "Employee" means any person employed by an employer covered by the Arkansas Teacher Retirement System.

(B)(i) "Employee" does not include a participant in a summer work program whose compensation is disbursed by a covered employer through an agreement with an administrator of a summer work program to serve as a pass-through fiscal agent if the participant is:

(a) Enrolled in a secondary public school as a student;

(b) Employed for a period between the first day of June and the last day of August; and

(c) Participating in a program in which the covered employer is acting as a pass-through fiscal agent.

(ii) The board shall promulgate rules for the implementation of subdivision (17)(B)(i) of this section;

(18) "Employer" or "covered employer" means any public school, public educational agency, or other eligible employer participating in the Arkansas Teacher Retirement System unless the context clearly indicates that the employer is not a covered employer;

(19) "Employment with a school" means, beginning July 1, 1993:

(A) Employment with any of the following institutions or agencies:

(i) Arkansas School for the Blind;

(ii) Arkansas School for the Deaf;

(iii) Arkansas Activities Association;

(iv) State Board of Education;

(v) Regional education service cooperatives; and

(vi) Arkansas Teacher Retirement System;

(B) Employment in a position with any of the following organizations:

(i) The Educational Television Division; and

(ii) Area vocational-technical schools, except those employees of area vocational schools and the Division of Career and Technical Education, the Adult Education Section, and the Office of Skills Development, who have elected to participate in an alternate retirement plan established by §§ 24-7-901 and 24-7-903 — 24-7-908;

(C) Employment by Arkansas Rehabilitation Services except those employees who have elected to participate in the Arkansas Public Employees' Retirement System;

(D)(i) Employment in a position with an education-related agency or organization if the employee is or has been a member of the Arkansas Teacher Retirement System for a minimum of five (5) years and elects to become or remain a member of the Arkansas Teacher Retirement System. The employment shall be related to:

(a) Training public school employees or school board members;

(b) Teaching public school students; or

(c) Adult education programs.

(ii) The employment shall not be related in any manner to private schools.

(iii) Each education-related agency or organization shall be:

(a) Approved according to rules established by the board;

(b) Considered an employer under subdivision (18) of this section; and

(c) Responsible for all required employer contributions;

(E)(i) Employment in an enterprise privatized by a public school district.

(ii) If a public school district should privatize any of its services, any individual who is or was employed by the school district in one (1) of those services and who is or has been a member of the Arkansas Teacher Retirement System may elect to remain a member if:

(a) The board determines pursuant to rules adopted by the board that the participation of these employees in the Arkansas Teacher Retirement System will not in any way impair any legal status of the Arkansas Teacher Retirement System, including without limitation

its status as a governmental plan pursuant to the Internal Revenue Code and the Employee Retirement Income Security Act of 1974, or have a substantial adverse impact on the actuarial soundness of the Arkansas Teacher Retirement System; and

(b) The private provider assumes all responsibility for the required employer contributions and any fees for obtaining Internal Revenue Service rulings or Employee Retirement Income Security Act of 1974 opinions;

(F)(i) Employment in positions with an educational nonprofit corporation licensed and regulated by the Division of Developmental Disabilities Services of the Department of Human Services, if:

(a) The nonprofit corporation has elected to participate in the Arkansas Teacher Retirement System; and

(b) The board determines pursuant to rules adopted by the board that the participation of the educational nonprofit corporation will not in any way impair any legal status of the Arkansas Teacher Retirement System, including without limitation its status as a governmental plan pursuant to the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974, or have a substantial adverse impact on the actuarial soundness of the Arkansas Teacher Retirement System.

(ii) The employment shall be related to:

(a) Training public school employees or school board members;

(b) Teaching public school students; or

(c) Adult education programs.

(iii) The employment shall not be related in any manner to private schools.

(iv) Each educational nonprofit corporation shall be:

(a) Approved according to rules established by the board;

(b) Considered an employer under subdivision (18) of this section; and

(c) Responsible for all required employer contributions and any fees for obtaining Internal Revenue Service rulings or Employee Retirement Income Security Act of 1974 opinions; and

(G) Employment with a covered employer that elects to treat embedded employees of a contractor as members of the system;

(20) "Final average salary" means the average of the highest salaries earned by a member in state fiscal years determined in accordance with the rules of the board as is actuarially appropriate for the Arkansas Teacher Retirement System;

(21) "Inactive member" means a formerly active member who is:

(A) No longer rendering service that is covered by the Arkansas Teacher Retirement System; and

(B) Not a retirant;

(22) "Interest" means the rate or rates per annum, compounded annually, as the board shall adopt from time to time, that will be charged for the purchase of service credit or to repay a refund, or repayment of benefits, but the rate shall equal no less than the

Arkansas Teacher Retirement System's current assumed interest rate assumption;

(23) "Internal Revenue Code" means the Internal Revenue Code of 1986, 26 U.S.C. § 1 et seq., as amended, as it existed on January 1, 2013;

(24) "Look-back period" means a period of time that includes the current fiscal year and the four (4) fiscal years immediately preceding the current fiscal year;

(25)(A) "Manifest injustice" means an obvious unfairness that has a direct and observable unconscionable effect that will occur as a result of a technical error or error of judgment, when the error made by the system, a benefit participant, or employer, and the disparity of outcome to the parties, when taken together and supported by clear and convincing evidence, show a great harm to the integrity of the system as a whole, the benefit participant, or an employer, unless the system is afforded the discretion to resolve the matter in a fair manner.

(B) In determining manifest injustice the system may consider:

(i) The degree of fault of the system, benefit participant, or employer;

(ii) An ambiguity in the interpretation of the circumstances, rule, or law;

(iii) The cost to the system of correcting the error that is far outweighed by the benefit afforded to the system, benefit participant, or employer;

(iv) Whether or not an expedited decision is in the public interest;

(v) The fundamental fairness of a remedy in a particular situation; and

(vi) Whether or not the status quo would result in an unconscionable outcome;

(26) "Member" means any person included in the membership of the Arkansas Teacher Retirement System;

(27) "Nonteacher" means a member who is not a teacher or an administrator;

(28) "Normal retirement age" means:

(A) Sixty-five (65) years of age if the member has at least five (5) years of actual service; or

(B) At least sixty (60) years of age if the member has a combined total of thirty-eight (38) years or more of credited service in the Arkansas Teacher Retirement System, Teacher Deferred Retirement Option Plan, or reciprocal service in another eligible state retirement system;

(29) "Reciprocal service" means credited service rendered under a reciprocal system as defined by § 24-2-401;

(30) "Regular interest" means the rate or rates per annum, compounded annually, which the board shall adopt from time to time, that will be used to compute interest on members' contributions;

(31) "Reserve" means the present value of all payments to be made on account of any Arkansas Teacher Retirement System benefit based

upon such reasonable tables of experience and regular interest as the board shall adopt from time to time;

(32) "Retiree" or "retirant" means a member receiving an Arkansas Teacher Retirement System annuity;

(33) "Retires" means that a member ceases to be active and is eligible to receive retirement benefits from the Arkansas Teacher Retirement System;

(34)(A) "Salary" means the remuneration paid to a member employed in a position covered by the Arkansas Teacher Retirement System on which the employer is required to withhold federal income tax from wages or on which income tax would be due under the Internal Revenue Code.

(B) "Salary" includes:

(i) An incentive bonus paid to an employee for the employee's certification by the National Board for Professional Teaching Standards under § 6-17-413 if the Department of Education pays the employer contribution and the member pays the required member contribution; and

(ii) Employer pick-up contributions, cafeteria plans as defined in § 21-5-901, and employee contributions to qualified retirement plans, including without limitation qualified annuities and deferred compensation plans.

(C) "Salary" does not include:

(i) All or part of a payment made as a result of a contract buyout agreement, settlement, claim, judgment, arbitration award, decree, or court-ordered payment to a member; and

(ii) Nonmonetary taxable income, including without limitation vehicles, housing, and personal property.

(D) The board may promulgate rules to modify the definition of salary used in the calculation of benefits by the system;

(35) "School" means any public school under the control of school authorities of the state and supported wholly or partially by state moneys;

(36) "Service" means employment rendered as an employee;

(37)(A) "Service purchase account" means an account established by a member with the Arkansas Teacher Retirement System to allow the member to buy service credit in the system as allowed under this subchapter.

(B) "Service purchase account" does not include an account established by the system to allow a member to make payments on unreported or incorrectly reported contributory service credit that is not resolved through a release process;

(38) "Social Security" means the Social Security, old age, survivors', and disability insurance program;

(39) "State" means the State of Arkansas;

(40) "System" means the Arkansas Teacher Retirement System;

(41) "T-DROP" means the Teacher Deferred Retirement Option Plan established by the Arkansas Teacher Retirement System;

(42) "T-DROP plan interest" means the rate or rates per annum that the board shall adopt from time to time that will be used to compute interest paid on T-DROP mean balances at the end of each fiscal year;

(43)(A) "Teacher" means, beginning July 1, 1989, any person employed by a school for the purpose of giving instructions and whose employment requires state licensure.

(B) In any case of a question as to who is a teacher, the board shall have the final power to decide the question; and

(44) "Trustee" means a member of the board.

History. Acts 1973, No. 427, § 2; 1983, No. 619, § 1; 1983, No. 665, § 1; 1985, No. 805, § 1; A.S.A. 1947, § 80-1437; Acts 1989, No. 652, § 1; 1989, No. 653, § 1; 1993, No. 435, § 1; 1993, No. 897, § 1; 1995, No. 460, § 1; 1995, No. 542, § 1; 1995, No. 638, §§ 1, 2; 1997, No. 142, § 1; 1997, No. 1064, § 1; 1997, No. 1137, § 3; 1999, No. 11, § 1; 1999, No. 865, § 3; 2001, No. 155, § 1; 2001, No. 461, § 1; 2005, No. 71, § 1; 2005, No. 146, § 2; 2005, No. 2190, § 23; 2007, No. 97, § 1; 2007, No. 617, § 44; 2009, No. 468, § 1; 2009, No. 1325, § 1; 2009, No. 1326, § 2; 2011, No. 45, § 1; 2011, No. 69, §§ 3, 4; 2011, No. 138, § 1; 2011, No. 163, § 1; 2011, No. 225, § 1; 2013, No. 140, §§ 1, 2; 2013, No. 303, § 1; 2013, No. 521, § 1; 2015, No. 301, § 1; 2017, No. 293, §§ 1, 2; 2017, No. 436, §§ 1, 2; 2017, No. 575, § 1; 2019, No. 315, §§ 2882, 2883; 2019, No. 427, §§ 2-5; 2019, No. 910, §§ 2369, 2370; 2021, No. 279, §§ 1-4; 2021, No. 290, § 1; 2021, No. 427, § 1; 2021, No. 691, § 1.

A.C.R.C. Notes. Acts 2021, No. 290, § 1, amended the definition of "Normal retirement age" in this section, effective September 1, 2021. Please note that the previous definition of "Normal retirement age" is effective until September 1, 2021, as follows:

"[Effective until September 1, 2021] 'Normal retirement age' means sixty-five (65) years of age.

"[Effective September 1, 2021] 'Normal retirement age' means:

"(A) Sixty-five (65) years of age if the member has at least five (5) years of actual service; or

"(B) At least sixty (60) years of age if the member has a combined total of thirty-eight (38) years or more of credited service in the Arkansas Teacher Retirement System, Teacher Deferred Retirement Option Plan, or reciprocal service in another eligible state retirement system;"

Publisher's Notes. This section is set out to correct publishing errors in the 2021 cumulative supplement pamphlet.

Amendments. The 2017 amendment by No. 293, in the definition for "Arkansas Teacher Retirement System", inserted "governmental" and added "and includes a limited liability company or other corporate entity solely owned by the system"; and, in the definition for "Employer", inserted "or 'covered employer'" and added "unless the context clearly indicates that the employer is not a covered employer".

The 2017 amendment by No. 436 inserted "or on which income tax would be due" in present (33)(A); and deleted "on which the employer is required to withhold federal income tax from wages unless the amount paid to the member is higher than the wages earned by the member for regular service" from the end of present (33)(C)(i).

The 2017 amendment by No. 575 added present (18)(G).

The 2019 amendment by No. 315 deleted "and regulations" following "rules" in present (18)(D)(iii)(a) and present (19).

The 2019 amendment by No. 427 added the definition for "Administrator"; rewrote present (19); added "Retiree" to the defined term "Retirant"; and made stylistic changes.

The 2019 amendment by No. 910 substituted "Division of Career and Technical Education, Adult Education Section of the Division of Workforce Services, and the Office of Skills Development" for "Department of Career Education" in present (18)(B)(ii) and substituted "Division of Workforce Services" for "Department of Career Education" following "Arkansas Rehabilitation Services of the" in present (18)(C).

The 2021 amendment by No. 279 substituted "an employer" for "a participating employer" in (5)(B)(i); in the definition for

“Employment with a school”, substituted “education-related agency or organization” for “educationally related agency” in the introductory language of both (D)(i) and (iii); added “or an administrator” in the definition for “nonteacher”; and inserted “or rates” in the definition for “T-DROP plan interest”.

The 2021 amendment by No. 290, in the definition for “Normal retirement age”, added “if the member has at least five (5)

years of actual service: or” in (A) and added (B); and made stylistic changes.

The 2021 amendment by No. 427 added the definition for “Alternate retirement plan”.

The 2021 amendment by No. 691 in the definition for “Employee” added (B) and made stylistic changes.

Effective Dates. Acts 2021, No. 290, § 3: Sept. 1, 2021.

CASE NOTES

Settlement Proceeds.

Substantial evidence supported the finding that a school district was responsible for paying the employer contribution to the Arkansas Teacher Retirement System (ATRS) on settlement proceeds a teacher received and that a school district failed to follow the calculation of damages

designated in the settlement as back pay because a 14% employer contribution had to be paid on all salary, and ATRS could treat as salary any remuneration paid to a member for settlement with an employer. *Palestine-Wheatley Sch. Dist. v. Hopkins*, 2016 Ark. App. 112, 484 S.W.3d 682 (2016).

CHAPTER 8

RETIREMENT OF JUDGES AND COURT EMPLOYEES

SUBCHAPTER 9 — DISTRICT COURT CLERKS' RETIREMENT

24-8-903. Retirement membership of district court clerks.

CASE NOTES

In General.

Language of subsection (a) of this section must be read in conjunction with other relevant statutes, including those related to vesting as a member of the Arkansas Public Employees' Retirement System (APERS). Substantial evidence supported the Board of Trustees' finding that the local plan of appellant, a retired municipal court clerk who had been

brought into APERS as an existing retiree from her local plan, did not include a cost-of-living adjustment (COLA), and she was not entitled to a COLA under APERS under subsection (a) of this section because she failed to show that she had become a vested member. *Bolding v. Ark. Pub. Emples. Ret. Sys.*, 2022 Ark. App. 275, 646 S.W.3d 696 (2022).

CHAPTER 10

ARKANSAS LOCAL POLICE AND FIRE RETIREMENT SYSTEM

SUBCHAPTER.

6. BENEFITS.

SUBCHAPTER 6 — BENEFITS

SECTION.

24-10-607. Disability retirement — Definition.

24-10-607. Disability retirement — Definition.

(a)(1)(A)(i) An active member with five (5) years of credited service, including credited service for seventy-five percent (75%) of the two (2) years immediately preceding his or her disability, who while an active member becomes totally and permanently physically or mentally incapacitated for any suitable duty as an employee as a result of a personal injury or disease, may be retired by the Board of Trustees of the Arkansas Local Police and Fire Retirement System upon proper application filed with the board by or on behalf of the member or former member.

(ii) A member hired on or after July 1, 2013, shall accrue ten (10) years of actual service in order to be eligible for retirement.

(iii) [Repealed.]

(iv) [Repealed.]

(B) The employee shall be retired only if, after a medical examination of the member or former member made by or under the direction of a physician or physicians designated by the board, the physician reports to the board in a manner prescribed by the board that the member or former member is physically or mentally totally incapacitated for the further performance of any suitable duty, that the incapacity will be permanent, and that the member or former member should be retired.

(2) A proper application to the board by the member or former member or on behalf of the member shall be filed with the board not later than thirty (30) calendar days after the termination of active membership.

(3) The disability annuity shall be effective the first day of the calendar month next following his or her termination of active membership and filing of the proper application with the board.

(b)(1)(A) Upon disability retirement as provided in subsection (a) of this section, a member shall receive an annuity provided for in § 24-10-602.

(B)(i) For purposes of calculating the amount of an annuity for disability retirement, a member's final average pay shall include workers' compensation benefits received by the member as set forth under § 24-10-102(17)(D).

(ii) Disability benefits awarded to members before July 16, 2003, shall be adjusted to include workers' compensation benefits in calculating final average pay upon application to the system by the affected member.

(iii) An adjustment shall not be made in monthly benefits paid before January 1, 2003.

(2) The member shall have the right to elect an option provided for in § 24-10-603.

(3) The member's disability retirement and annuity shall be subject to the provisions of subsection (e) of this section and to the provisions of § 24-10-610.

(c)(1)(A) Any active member who while an active member becomes totally and permanently physically or mentally incapacitated for any suitable duty as an employee as the result of a personal injury or disease that the board finds to have arisen out of and in the course of his or her actual performance of duty as an employee may be retired by the board upon proper application filed with the board by or on behalf of the member or former member.

(B) The employee shall be retired only if, after a medical examination of the member or former member made by or under the direction of a physician or physicians designated by the board, the physician reports to the plan in a manner prescribed by the board that the member or former member is physically or mentally totally incapacitated for the further performance of any suitable duty, that the incapacity will be permanent, and that the member or former member should be retired.

(2) A proper application to the board by the member or former member or on behalf of the member shall be filed with the board not later than thirty (30) calendar days after the termination of active membership.

(3) The disability annuity shall be effective the first day of the calendar month next following his or her termination of active membership and filing of the proper application with the board.

(4)(A) A member who is hired on or after July 1, 2013, shall accrue ten (10) years of actual service to be eligible for retirement as provided in this subsection.

(B) As used in this subsection:

(i) "Cancer" means:

(a) Leukemia, lymphoma, mesothelioma, or multiple myeloma;

(b) Cancer of the brain, urinary tract, liver, skin, breast, cervix, thyroid, prostate, testicle, colon, or digestive tract; or

(c) A cancer that has been found by research and statistics to show higher instances of occurrence in firefighters than in the general population, if the firefighter was exposed to a known carcinogen, as determined by the Department of Health with consideration to the findings of the International Agency for Research on Cancer, while in the official line of duty; and

(ii) "Disease" includes without limitation a cancer that a member is diagnosed with while he or she is in the line of duty.

(C) A finding that a member was diagnosed with cancer while he or she was in the line of duty may be rebutted by a preponderance of the evidence.

(d)(1)(A) Upon disability retirement as provided in subsection (c) of this section, a member shall receive an annuity provided for in § 24-10-602.

(B) However, for the sole purpose of computing the amount of the annuity from volunteer service for such a retirant who does not have twenty-five (25) years of credited service in force at the beginning of the disability retirement, credited service shall be granted for the period from the date of disability retirement to the date the retirant would have completed twenty-five (25) years of credited service.

(C)(i) An approved duty disability retirement that is effective on or after April 1, 2021, shall be classified as catastrophic duty disability, hazardous duty disability, or ordinary duty disability in accordance with the criteria in the rules for disability retirement established by the board.

(ii) A catastrophic duty disability annuity shall be equal to the greater of the following:

(a) The annuity paid to a retirant with twenty-eight (28) years of accrued paid service credit; or

(b) The annuity paid to a retirant for each year of paid service resulting from employment as provided under § 24-10-602.

(iii) A hazardous duty disability annuity shall be equal to the greater of the following:

(a) Sixty-five percent (65%) of the final average pay of the member; or

(b) The annuity paid to a retirant for each year of paid service resulting from employment as provided for in § 24-10-602.

(iv) An ordinary duty disability annuity shall be equal to the greater of the following:

(a) Fifteen percent (15%) of the final average pay of the member; or

(b) The annuity paid to a retirant for each year of paid service resulting from employment as provided under § 24-10-602.

(2) The retirant shall have the right to elect an option provided for in § 24-10-603.

(3) The retirant's disability retirement and annuity shall be subject to the provisions of subsection (e) of this section and to the provisions of § 24-10-610.

(e)(1) At least one (1) time each year following a member's retirement on account of disability, the board may require a disability retirant who has not attained age fifty-five (55) to undergo a medical examination to be made by or under the direction of a physician or physicians designated by the board.

(2) If the retirant refuses to submit to the medical examination, his or her disability annuity may be suspended by the board until his or her withdrawal of his or her refusal.

(3) If the refusal of the retirant continues for ninety (90) calendar days, all the rights of the retirant in and to a disability annuity may be revoked by the board.

(4) If, upon the medical examination of the retirant, the physician reports to the board that the retirant is physically and mentally able and capable of resuming suitable duty as an employee, his or her disability retirement shall terminate.

(5) If the former disability retirant does not immediately again become an employee, then, for the purpose of determining his or her eligibility for any other system benefit, he or she shall be considered to have terminated active membership as of the time of disability retirement, but for a reason other than disability or death.

(6)(A) If the former disability retirant immediately again becomes an employee, he or she shall immediately again become a member of the system, and his or her credited service at the time of his or her disability retirement shall be restored to his or her credit.

(B) He or she shall be given service credit for the period he or she was in receipt of the disability annuity.

(C) Should the former disability retirant again become totally and permanently disabled within two (2) years immediately following his or her return to membership, the seventy-five percent (75%) credited service requirement specified in subsection (a) of this section shall be waived.

(f)(1) Beginning July 1, 2003, a member of the Arkansas Local Police and Fire Retirement System who received a disability retirement before July 1, 2001, shall receive the greater benefit of sixty-five percent (65%) of the final average pay of the member or an amount equal to the annuity paid to retirants for each year of paid service resulting from employment.

(2) However, the system shall not be responsible for making benefit payments retroactive to the effective date of the disability.

(g) Except for a disability retirant, a retirant who again becomes an employee of an employer covered by the system shall not be eligible to apply for or receive benefits under this section if he or she becomes disabled.

(h) An approved disability annuity shall be forfeited immediately if a retirant becomes employed in a position that has the retirant perform a duty similar to his or her former employment:

(1) As a certified law enforcement officer;

(2) As a certified firefighter;

(3) As a first responder; or

(4) Performing an emergency medical service function.

(i) When determining eligibility to apply for or receive a benefit under this section, the following shall not be considered:

(1) Workers' compensation laws;

(2) Workers' compensation rules;

(3) An opinion regarding workers' compensation; or

(4) A determination regarding workers' compensation.

History. Acts 1981, No. 364, § 5; A.S.A. 1947, § 12-3805; Acts 1989, No. 9, §§ 1, 2; 1993, No. 1199, § 1; 1995, No. 643, § 1; 2001, No. 1132, § 1; 2003, No. 481, §§ 1, 2; 2003, No. 507, § 2; 2003, No. 1367, §§ 3, 4; 2013, No. 40, § 10; 2013, No. 1065, § 7; 2019, No. 178, §§ 4-7; 2019, No. 638, § 2; 2021, No. 72, §§ 3-10.

Publisher's Notes. This section is being set out to correct the language in (g) in the 2021 supplement pamphlet.

Amendments. The 2019 amendment by No. 178 substituted "thirty (30) calendar days" for "one (1) year" in (a)(2) and (c)(2); and rewrote (a)(3) and (c)(3).

The 2019 amendment by No. 638 added (a)(1)(A)(iii) and (a)(1)(A)(iv).

The 2021 amendment repealed (a)(1)(A)(iii) and (iv); in (a)(1)(B) and

(c)(1)(B), deleted "probably" preceding "be permanent"; added (c)(4); inserted "from volunteer service" in (d)(1)(B); added (d)(1)(C); deleted (d)(2) and redesignated former (d)(3) and (4) as (d)(2) and (3); in (e)(1), deleted "during the first five (5) years" following "each year" and "and at least one (1) time in each three-year period thereafter" following "on account of disability"; deleted "in any period" following "examination" in (e)(2); substituted "ninety (90) calendar days" for "one (1) year" in (e)(3); in (f)(1), substituted "a member" for "subdivision (d)(2) of this section shall apply retroactively to allow members", "shall receive" for "to receive", and "pay" for "salary"; added (g)-(i); and made stylistic changes.

CASE NOTES

ANALYSIS

Causal Connection.
Duty-Related.

Causal Connection.

Decision of the Board of Trustees of the Arkansas Local Police and Fire Retirement System, upholding the denial of duty-related disability benefits to a deceased firefighter who had suffered from colon cancer, was reversed where the Board required a level of causal certainty that went beyond what was required by subdivision (c)(1)(A) of this section. *Sexton v. Local Police & Fire Ret. Sys.*, 2016 Ark. App. 496, 506 S.W.3d 248 (2016).

Duty-Related.

Circuit court erred in upholding the decision of the Board of Trustees of the

Arkansas Local Police and Fire Retirement System, which denied a police officer's claim for duty-related disability retirement benefits, because no substantial evidence supported the board's finding that the police officer's injuries did not arise out of and in the course of her actual performance of duty as an employee of the police department; during the officer's part-time employment with a department store, she wore her full police uniform and was acting under her authority as a police officer. *Jones v. Ark. Local Police & Fire Ret. Sys.*, 2018 Ark. App. 287, 550 S.W.3d 27 (2018).

TITLE 25

STATE GOVERNMENT

CHAPTER.

18. PUBLIC RECORDS.

CHAPTER 15

ADMINISTRATIVE PROCEDURES

SUBCHAPTER 2 — ADMINISTRATIVE PROCEDURE ACT

25-15-207. Rules — Actions for declaratory judgments.

CASE NOTES

ANALYSIS

Applicability.
Intervention.

Applicability.

Company argued that the department could not validly apply the medical-necessity rule to deny coverage of a prescription for FDA-approved use of a drug without contravening federal law under 42 U.S.C. § 1396r-8, and this challenge conferred subject-matter jurisdiction on the circuit court under the declaratory judgment statute; there was a justiciable controversy based on the financial injury to the company, whose only product on the market was the drug in question. Ark. Dep't of Human Servs. v. Sarepta Therapeutics, Inc., 2021 Ark. App. 330 (2021).

Neither the circuit court nor the Supreme Court had subject-matter jurisdiction over the Medical Marijuana Commission's actions regarding appellee's medical

marijuana dispensary license under either this section or § 25-15-212; among other things, there were no findings of fact or final orders from the Commission that resulted from a hearing. Ark. Dep't of Fin. Admin. v. Carroll Cnty. Holdings, Inc., 2022 Ark. 128, 644 S.W.3d 405 (2022).

Intervention.

Circuit court clearly erred in relying on § 25-15-212(g) to deny herbicide manufacturer's motion to intervene in a lawsuit challenging a rule adopted by the State Plant Board; the challenge was to a rule-making, not an adjudication, and this section, unlike § 25-15-212, does not limit review to the agency record. As the Administrative Procedure Act provides no standard for intervention, Ark. R. Civ. P. 24 applied, and under that rule, intervention in this case was a matter of right. Bayer Cropscience, LP v. Hooks, 2022 Ark. 29, 638 S.W.3d 274 (2022).

25-15-212. Administrative adjudication — Judicial review.

CASE NOTES

ANALYSIS

Applicability.
Inmates.
Jurisdiction.
Petition for Review.

Applicability.

Circuit court clearly erred in relying on subsection (g) of this section to deny herbicide manufacturer's motion to intervene in a lawsuit challenging a rule adopted by the State Plant Board; the challenge was to a rulemaking, not an adjudication, and § 25-15-207, unlike this section, does not limit review to the agency record. As the Administrative Procedure Act provides no

standard for intervention, Ark. R. Civ. P. 24 applied, and under that rule, intervention in this case was a matter of right. Bayer Cropscience, LP v. Hooks, 2022 Ark. 29, 638 S.W.3d 274 (2022).

Inmates.

Circuit court did not abuse its discretion when it dismissed prisoner's complaint for failing to state a claim for relief pursuant to the Administrative Procedure Act because he failed to show a constitutional violation related to the denial of parole; with regard to his due process claim, the prisoner failed to demonstrate that the Arkansas parole procedures created a liberty interest in parole because due to the seriousness of his crime, granting parole

was discretionary, and even if due process was required of the Parole Board in determining the prisoner's eligibility, the evidence demonstrated that the prisoner was provided with the full extent of process that was constitutionally required, and the prisoner also failed to sufficiently allege or demonstrate a basis for an equal protection claim. *Wood v. Ark. Parole Bd.*, 2022 Ark. 30, 639 S.W.3d 340 (2022).

Jurisdiction.

Neither the circuit court nor the Supreme Court had subject-matter jurisdiction over the Medical Marijuana Commission's actions regarding appellee's medical marijuana dispensary license under either § 25-15-207 or this section; among other things, there were no findings of fact or final orders from the Commission that resulted from a hearing. *Ark. Dep't of Fin. Admin. v. Carroll Cnty. Holdings, Inc.*, 2022 Ark. 128, 644 S.W.3d 405 (2022).

Petition for Review.

Subdivision (b)(2) of this section required the Department of Human Services (DHS) to serve its petition for judicial review not only on the provider but also on the Department of Health, which conducted the administrative appeal and issued the decision in favor of the provider and against DHS, which administers the Arkansas Medicaid program. In § 20-77-1704, the Medicaid Fairness Act assigns to the Department of Health the duty to conduct Medicaid provider administrative appeals, and the circuit court did not err by dismissing DHS's petition for review for failure to serve it on the Department of Health. *Ark. Dep't of Human Servs. v. Northwest Health Sys.*, 2022 Ark. App. 98 (2022).

Cited: *Crain Family Holdings, LLC v. Ford Motor Co.*, 2021 Ark. App. 361, 635 S.W.3d 346 (2021).

CHAPTER 16

STATE OFFICERS

SUBCHAPTER 7 — ATTORNEY GENERAL

25-16-703. Representation of state interests in federal courts.

CASE NOTES

Sovereign Immunity.

In an action challenging various actions of the Arkansas Attorney General, such as legal filings in out-of-state litigation, spending public funds on certain TV commercials, and partisan activities, the plaintiff taxpayers' request for injunctive relief should have been summarily dismissed because they failed to plead facts to overcome the Attorney General's sovereign immunity and none of the facts and

legal allegations established that the Attorney General exceeded any legal authority. Because the Attorney General's power spoke broadly, did not suggest a precondition, and contained no limitation to only cases where the State of Arkansas was a party to the lawsuit, plaintiffs failed to plead sufficient facts to overcome sovereign immunity. *Rutledge v. Rummel*, 2022 Ark. 86, 643 S.W.3d 5 (2022).

CHAPTER 18

PUBLIC RECORDS

SUBCHAPTER.

6. RETENTION OF PUBLIC RECORDS BY STATE AGENCIES.

SUBCHAPTER 6 — RETENTION OF PUBLIC RECORDS BY STATE AGENCIES

SECTION.

25-18-603. Definitions.

25-18-603. Definitions.

As used in this subchapter:

(1) “Public records” means the same as defined in § 25-19-103(7)(A); and

(2)(A) “State agencies” means all state departments, boards, and commissions.

(B) “State agencies” does not include:

(i) The elected constitutional officers and their staffs;

(ii) The General Assembly and its committees and staffs;

(iii) The Supreme Court;

(iv) The Court of Appeals;

(v) The Administrative Office of the Courts; and

(vi) Public institutions of higher education with respect to academic, research, health care, and existing information and technology applications and underlying support.

History. Acts 2005, No. 918, § 1; 2007, No. 751, § 20. ing set out to reflect a correction to a reference in (1).

Publisher’s Notes. This section is be-

CHAPTER 19

FREEDOM OF INFORMATION ACT OF 1967

25-19-103. Definitions.

CASE NOTES

Public Records.

Circuit court erred in requiring the Secretary of Transformation and Shared Services to disclose communications between a former public official and a vendor’s employee and in not determining whether each individual message met the statutory definition of a “public record” because

the messages were individual, sent on different days, sent at different times, were not all interrelated and inextricably intertwined, and were capable of being sorted into private and public record categories. *Myers v. Fecher*, 2021 Ark. 230, 635 S.W.3d 495 (2021).

25-19-105. Examination and copying of public records.

CASE NOTES

ANALYSIS

Competitor.

Exempted Records.

Investigation Files.

Competitor.

In a Freedom of Information Act case, where the Arkansas Department of Commerce, Division of Workforce Services, sought to protect certain information re-

quested by plaintiff, the circuit court properly refused to apply the exemption in subdivision (b)(9)(A) of this section, for files that would give advantage to competitors or bidders if disclosed, because applicants for unemployment benefits were not “competitors” or “bidders” within the plain language of the exemption. Ark. DOC v. Legal Aid of Ark., 2022 Ark. 130, 645 S.W.3d 9 (2022).

Exempted Records.

Request for photographs of all uniformed, plain clothed, non-undercover Arkansas State Troopers hired since appellee made a similar request in 2019 was exempt from disclosure under subdivision (b)(10)(A) of this section (identities of undercover officers). Clearly, comparing information already available to the public, from sources like the Arkansas Transparency website—which provides names, service dates, salaries, race, gender, and

other identifying information of State employees, including state troopers—with a list of non-undercover troopers would reveal the identities of the undercover officers. Ark. State Police v. Racop, 2022 Ark. 17, 638 S.W.3d 1 (2022).

Investigation Files.

Arkansas Department of Commerce, Division of Workforce Services (DWS), was not a law enforcement agency to which the exemption in the Freedom of Information Act for undisclosed investigations of suspected criminal activity applied, and thus, it was not entitled to redact its public records; none of the statutes DWS referenced authorized it to conduct criminal investigations but rather, they allowed it to conduct administrative investigations, initiate civil collection actions, and refer matters to law enforcement agencies. Ark. DOC v. Legal Aid of Ark., 2022 Ark. 130, 645 S.W.3d 9 (2022).

25-19-110. Exemptions.

RESEARCH REFERENCES

ALR. Disclosure of Surveillance Records Under Freedom of Information Act, 5 U.S.C. § 552(b)(7)(E). 64 A.L.R. Fed. 3d Art. 8 (2021).

Deliberative Process Exemption from Freedom of Information Act, 5 U.S.C. § 552(b) — Draft Documents and Notes. 69 A.L.R. Fed. 3d Art. 2 (2022).

TITLE 26

TAXATION

SUBTITLE 3. ADMINISTRATION OF LOCAL TAXES

CHAPTER.
26. ASSESSMENT OF TAXES.

SUBTITLE 5. STATE TAXES

CHAPTER.
51. INCOME TAXES.
60. REAL PROPERTY TRANSFER TAX.
65. ELECTIVE PASS-THROUGH ENTITY TAX ACT.

SUBTITLE 1. GENERAL PROVISIONS**CHAPTER 3****PROPERTY SUBJECT TO TAXATION AND
EXEMPTIONS****SUBCHAPTER 3 — EXEMPTIONS FROM TAXATION****26-3-301. Property exempt from taxes generally.****RESEARCH REFERENCES**

ALR. Religious Use Tax Exemption of Specific Property Under State or Local Laws. 66 A.L.R.7th Art. 1 (2021).

26-3-303. Parsonages.**RESEARCH REFERENCES**

ALR. Religious Use Tax Exemption of Specific Property Under State or Local Laws. 66 A.L.R.7th Art. 1 (2021).

SUBTITLE 2. ADMINISTRATION OF STATE TAXES**CHAPTER 18****STATE TAX PROCEDURE GENERALLY****SUBCHAPTER 3 — ADMINISTRATION GENERALLY****26-18-303. Records confidential and privileged — Exceptions.
[Effective January 1, 2022, and until January 1,
2023.]**

A.C.R.C. Notes. Identical Acts 2021 (2nd Ex. Sess.), Nos. 7 and 12, § 5, provided: “Additional savings provisions.

“(a) It is the intent of this section to:

“(1) Provide for the transition and continuous operation and effect of additional provisions of Arkansas law related to limited liability companies and other business entities, whether or not specifically referenced in Acts 2021, No. 1041, including without limitation provisions affecting the operation and taxation aspects of limited liability companies and other business entities;

“(A) Under the Uniform Protected Series Act, § 4-37-101 et seq.; and

“(B) Concerning the authorized and unauthorized use of business names; and

“(2) Ratify, validate, confirm, approve, and cure any actions under a codified or uncoded provision described in this section.

“(b) For the period of time after July 27, 2021, and before September 1, 2021, with respect to Acts 2021, No. 1041, §§ 2-25, 27-30, 32, 34, and 36, concerning various definitions and transition provisions from the Small Business Entity Tax Pass

Through Act, § 4-32-101 et seq., to the Uniform Limited Liability Company Act, § 4-38-101 et seq., the stricken words 'Small Business Entity Tax Pass Through Act, § 4-38-101 et seq.', and all stricken provisions of the Small Business Entity Tax Pass Through Act, § 4-38-101 et seq., shall be treated as unstricken and operative and the underlined words 'Uniform Limited Liability Company Act, § 4-38-101 et seq.' and all underlined provisions of the Uniform Limited Liability Company Act, § 4-38-101 et seq. shall be treated as stricken and inoperative.

"(c) Any action or obligation of any public or private individual or entity that occurred under the following sections after July 27, 2021, and before September 1, 2021, that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, approved, and cured notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1:

"(1) Section 4-37-102(8), amended by Acts 2021, No. 1041, § 2;

"(2) Section 4-37-102(12), amended by Acts 2021, No. 1041, § 3;

"(3) Section 4-37-102(13), amended by Acts 2021, No. 1041, § 4;

"(4) Section 4-37-102(14), amended by Acts 2021, No. 1041, § 5;

"(5) Section 4-37-102(20), amended by Acts 2021, No. 1041, § 6;

"(6) Section 4-37-106, amended by Acts 2021, No. 1041, § 7;

"(7) Section 4-37-107(a)(4), amended by Acts 2021, No. 1041, § 8;

"(8) Section 4-37-108, amended by Acts 2021, No. 1041, § 9;

"(9) Section 4-37-201(c), amended by Acts 2021, No. 1041, § 10;

"(10) Section 4-37-201(d), amended by Acts 2021, No. 1041, § 11;

"(11) Section 4-37-202, amended by Acts 2021, No. 1041, § 12;

"(12) Section 4-37-204(a)(3), amended by Acts 2021, No. 1041, § 13;

"(13) Section 4-37-304(f), amended by Acts 2021, No. 1041, § 14;

"(14) Section 4-37-304(g), amended by Acts 2021, No. 1041, § 15;

"(15) Section 4-37-305, amended by Acts 2021, No. 1041, § 16;

"(16) Section 4-37-403, amended by Acts 2021, No. 1041, § 17;

"(17) Section 4-37-502, amended by Acts 2021, No. 1041, § 18;

"(18) Section 4-37-503, amended by Acts 2021, No. 1041, § 19;

"(19) Section 4-37-604, amended by Acts 2021, No. 1041, § 20;

"(20) Section 4-37-605(1), amended by Acts 2021, No. 1041, § 21;

"(21) Section 4-37-606(1), amended by Acts 2021, No. 1041, § 22;

"(22) Section 4-37-607, amended by Acts 2021, No. 1041, § 23;

"(23) Section 4-37-703(c), amended by Acts 2021, No. 1041, § 24;

"(24) Section 4-37-703(d), amended by Acts 2021, No. 1041, § 25;

"(25) Section 4-42-707(b), amended by Acts 2021, No. 1041, § 27;

"(26) Section 4-47-905(a), amended by Acts 2021, No. 1041, § 28;

"(27) Section 4-70-201(c), amended by Acts 2021, No. 1041, § 29;

"(28) Section 15-4-1215(b), amended by Acts 2021, No. 1041, § 30;

"(29) Section 26-18-303(b)(14)(B), amended by Acts 2021, No. 1041, § 32;

"(30) Section 26-54-104(8), amended by Acts 2021, No. 1041, § 34; and

"(31) Section 26-54-105(h)(2), amended by Acts 2021, No. 1041, § 36.

"(d) Before September 1, 2021, to the extent any codified or uncoded provision of Arkansas law is derived from or depends upon any provision of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., for its meaning or operation:

"(1) The provisions of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., shall be treated as remaining in full force and effect solely for the limited purpose of supplying the requisite meaning or operation to the codified or uncoded provision; and

"(2) Any action or obligation of any public or private individual or entity that occurred after July 27, 2021, and before September 1, 2021, under a codified or uncoded provision of Arkansas law that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, approved, and cured notwithstanding the repeal of the Small Business Entity Tax Pass Through

Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1.”

26-18-303. Records confidential and privileged — Exceptions. [Effective January 1, 2023.]

A.C.R.C. Notes. Identical Acts 2021 (2nd Ex. Sess.), Nos. 7 and 12, § 5, provided: “Additional savings provisions.

“(a) It is the intent of this section to:

“(1) Provide for the transition and continuous operation and effect of additional provisions of Arkansas law related to limited liability companies and other business entities, whether or not specifically referenced in Acts 2021, No. 1041, including without limitation provisions affecting the operation and taxation aspects of limited liability companies and other business entities:

“(A) Under the Uniform Protected Series Act, § 4-37-101 et seq.; and

“(B) Concerning the authorized and unauthorized use of business names; and

“(2) Ratify, validate, confirm, approve, and cure any actions under a codified or uncoded provision described in this section.

“(b) For the period of time after July 27, 2021, and before September 1, 2021, with respect to Acts 2021, No. 1041, §§ 2-25, 27-30, 32, 34, and 36, concerning various definitions and transition provisions from the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., to the Uniform Limited Liability Company Act, § 4-38-101 et seq., the stricken words ‘Small Business Entity Tax Pass Through Act, § 4-38-101 et seq.’, and all stricken provisions of the Small Business Entity Tax Pass Through Act, § 4-38-101 et seq., shall be treated as unstricken and operative and the underlined words ‘Uniform Limited Liability Company Act, § 4-38-101 et seq.’ and all underlined provisions of the Uniform Limited Liability Company Act, § 4-38-101 et seq. shall be treated as stricken and inoperative.

“(c) Any action or obligation of any public or private individual or entity that occurred under the following sections after July 27, 2021, and before September 1, 2021, that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, ap-

proved, and cured notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1:

“(1) Section 4-37-102(8), amended by Acts 2021, No. 1041, § 2;

“(2) Section 4-37-102(12), amended by Acts 2021, No. 1041, § 3;

“(3) Section 4-37-102(13), amended by Acts 2021, No. 1041, § 4;

“(4) Section 4-37-102(14), amended by Acts 2021, No. 1041, § 5;

“(5) Section 4-37-102(20), amended by Acts 2021, No. 1041, § 6;

“(6) Section 4-37-106, amended by Acts 2021, No. 1041, § 7;

“(7) Section 4-37-107(a)(4), amended by Acts 2021, No. 1041, § 8;

“(8) Section 4-37-108, amended by Acts 2021, No. 1041, § 9;

“(9) Section 4-37-201(c), amended by Acts 2021, No. 1041, § 10;

“(10) Section 4-37-201(d), amended by Acts 2021, No. 1041, § 11;

“(11) Section 4-37-202, amended by Acts 2021, No. 1041, § 12;

“(12) Section 4-37-204(a)(3), amended by Acts 2021, No. 1041, § 13;

“(13) Section 4-37-304(f), amended by Acts 2021, No. 1041, § 14;

“(14) Section 4-37-304(g), amended by Acts 2021, No. 1041, § 15;

“(15) Section 4-37-305, amended by Acts 2021, No. 1041, § 16;

“(16) Section 4-37-403, amended by Acts 2021, No. 1041, § 17;

“(17) Section 4-37-502, amended by Acts 2021, No. 1041, § 18;

“(18) Section 4-37-503, amended by Acts 2021, No. 1041, § 19;

“(19) Section 4-37-604, amended by Acts 2021, No. 1041, § 20;

“(20) Section 4-37-605(1), amended by Acts 2021, No. 1041, § 21;

“(21) Section 4-37-606(1), amended by Acts 2021, No. 1041, § 22;

“(22) Section 4-37-607, amended by Acts 2021, No. 1041, § 23;

“(23) Section 4-37-703(c), amended by Acts 2021, No. 1041, § 24;

“(24) Section 4-37-703(d), amended by Acts 2021, No. 1041, § 25;

"(25) Section 4-42-707(b), amended by Acts 2021, No. 1041, § 27;

"(26) Section 4-47-905(a), amended by Acts 2021, No. 1041, § 28;

"(27) Section 4-70-201(c), amended by Acts 2021, No. 1041, § 29;

"(28) Section 15-4-1215(b), amended by Acts 2021, No. 1041, § 30;

"(29) Section 26-18-303(b)(14)(B), amended by Acts 2021, No. 1041, § 32;

"(30) Section 26-54-104(8), amended by Acts 2021, No. 1041, § 34; and

"(31) Section 26-54-105(h)(2), amended by Acts 2021, No. 1041, § 36.

"(d) Before September 1, 2021, to the extent any codified or uncoded provision of Arkansas law is derived from or depends upon any provision of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., for its meaning or operation:

"(1) The provisions of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., shall be treated as remaining in full force and effect solely for the limited purpose of supplying the requisite meaning or operation to the codified or uncoded provision; and

"(2) Any action or obligation of any public or private individual or entity that occurred after July 27, 2021, and before September 1, 2021, under a codified or uncoded provision of Arkansas law that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, approved, and cured notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1."

SUBCHAPTER 11 — INDEPENDENT TAX APPEALS COMMISSION ACT

A.C.R.C. Notes. Acts 2021, No. 586, § 2, as amended by identical Acts 2021 (2nd Ex. Sess.), Nos. 5 and 14, § 1, provided: "Creation of Tax Appeals Commission — Abolition of Department of Finance and Administration Office of Hearings and Appeals.

"(a)(1) The Tax Appeals Commission shall be created by July 1, 2022.

"(2) The initial commissioners shall be appointed by July 1, 2022.

"(3) The Chief Commissioner of the Tax Appeals Commission shall be designated by July 1, 2022.

"(4) The commission shall be ready to begin accepting and trying tax disputes by January 1, 2023.

"(5) This act does not affect a hearing, prosecution, action, suit, or appeal, commenced in the judicial branch of government before the creation of the commission.

"(b) Notwithstanding § 26-18-1106, the commissioners who are appointed during the creation of the commission shall be given initial terms of differing lengths as follows:

"(1) One (1) of the commissioners who is initially appointed shall serve an initial term of three (3) years and shall be eligible for appointment to two (2) subsequent terms of nine (9) years after the initial term;

"(2) One (1) of the commissioners who is initially appointed shall serve an initial term of six (6) years and may be appointed to one (1) subsequent term of nine (9) years after the initial term; and

"(3) One (1) of the commissioners who is initially appointed shall serve an initial term of nine (9) years and shall be eligible for appointment to one (1) subsequent term of nine (9) years after the initial term.

"(c)(1) The Office of Hearings and Appeals shall conclude its decisions on tax disputes initiated before January 1, 2023, by May 31, 2023, and shall be fully closed by June 30, 2023.

"(2) The Department of Finance and Administration shall retain the files of the Office of Hearings and Appeals, consistent with its current recordkeeping practices."

Effective Dates. Identical Acts 2021 (2nd Ex. Sess.), Nos. 5 and 14, § 2: Dec. 9, 2021. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Tax Appeals Commission is scheduled to begin operations on January 1, 2023; that it is essential that the commissioners of the commission be appointed and begin work as soon as possible to prepare to begin operations in 2023; that the initial commissioners of the commission are required to be appointed by July 1, 2022,

and the pool of candidates must be submitted to the Governor by December 31, 2021; and that this act is immediately necessary because it is essential that the entities recommending pools of candidates to the Governor for the initial appointment of commissioners to the commission have adequate notice of the requirements for making recommendations to ensure the timely and effective operation of the commission. Therefore, an emergency is declared to exist, and this

act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

SUBTITLE 3. ADMINISTRATION OF LOCAL TAXES

CHAPTER 26

ASSESSMENT OF TAXES

SUBCHAPTER.

3. ADMINISTRATION GENERALLY.

SUBCHAPTER 3 — ADMINISTRATION GENERALLY

SECTION.

26-26-310. Certification of amount of property tax reduction.

Effective Dates. Identical Acts 2021 (2nd Ex. Sess.), Nos. 1 and 2, § 14: Dec. 9, 2021. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act would create significant changes to the state's income tax laws; that this act would create significant changes to the fiscal policy of the state; that taxpayers and employers plan to meet their obligations on a calendar-year basis; and that this act is immediately necessary to ensure the financial stability of the state, to allow taxpayers and employers time both to plan for and to implement the changes in law created by this act, and to ensure

that the Department of Finance and Administration has sufficient time to update its forms and software and train its personnel in accordance with this act. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

26-26-310. Certification of amount of property tax reduction.

(a)(1) On or before March 31 of each year, the county collector of each county shall certify to the Chief Fiscal Officer of the State the amount of the real property tax reduction provided in § 26-26-1118.

(2)(A) After receipt of the certification from the county collectors, the Chief Fiscal Officer of the State shall determine the proportionate share of the total statewide reduction attributable to each county.

(B)(i) At the end of each month, the Chief Fiscal Officer of the State shall determine the balance in the Property Tax Relief Trust Fund and certify it to the Treasurer of State.

(ii) The Treasurer of State shall make distributions from the Property Tax Relief Trust Fund to each county treasurer in accordance with the county's proportionate share of the total statewide property tax reduction for that calendar year resulting from the provisions of § 26-26-1118.

(iii)(a) Effective January 1, 2006, the Treasurer of State shall make a monthly distribution from the Property Tax Relief Trust Fund to each county treasurer.

(b) The distributions for January, February, and March shall be in accordance with the county's proportionate share of the total statewide property tax reduction as of the final county certification of the previous year.

(c) Beginning in April of each year, the distribution from the Property Tax Relief Trust Fund to each county treasurer shall be in accordance with the county's proportionate share of the total statewide property tax reduction for that calendar year under § 26-26-1118.

(C)(i) If the Chief Fiscal Officer of the State has not received all of the certifications from the county collectors, then the distribution of the Property Tax Relief Trust Fund shall be as follows until all certifications have been received:

(a) The total amount of the Property Tax Relief Trust Fund to be distributed shall equal the total amount in the Property Tax Relief Trust Fund multiplied by the proportion of the previous year's total property assessment, less tangible personal property and property owned by utilities and regulated carriers, of the counties that have certified, divided by the previous year's total property assessment, less tangible personal property and property owned by utilities and regulated carriers in the state; and

(b) Each county that has certified its property tax reduction shall receive an amount of the Property Tax Relief Trust Fund, as adjusted in subdivision (a)(2)(C)(i)(a) of this section, equal to the county's proportionate share of the total property tax reduction of the counties that have certified their property tax reductions.

(ii) However, until all counties have certified their property tax reductions to the Chief Fiscal Officer of the State, no county shall receive more than seventy-five percent (75%) of its certified property tax reduction.

(3)(A)(i) Funds so received by the county treasurers shall be credited to the county property tax relief fund.

(ii) Ninety-six percent (96%) of the funds shall be allocated and distributed to the various taxing entities within the county that levy ad valorem taxes.

(iii) The allocation shall be based on a certification from the county collector of the amount of the real property tax reduction per taxing entity provided in § 26-26-1118.

(iv)(a) The four percent (4%) retained in the county property tax relief fund is the commission of the county collector as authorized under § 21-6-305(a)(4).

(b) This commission shall become a part of the total commission of the county collector.

(v) These funds are subject to § 21-6-305(d).

(B) Funds so received by the various taxing units shall be used for the same purposes and in the same proportions as otherwise provided by law.

(b)(1) Distributions to each county shall continue on a monthly basis from the Property Tax Relief Trust Fund until the full amount certified by the county collectors, as of November 15 of each year, has been paid.

(2)(A) In no event shall the amount distributed to a county during a calendar year from the Property Tax Relief Trust Fund exceed the final amount certified by the county collector as of November 15 as the property tax reduction for that calendar year resulting from § 26-26-1118.

(B) If a county is paid in excess of its proportionate share, the Chief Fiscal Officer of the State may reduce payments made to the county for the subsequent calendar year until the overpayment is recovered.

(C)(i) On or before December 31 of each year, the Chief Fiscal Officer of the State, in cooperation with the Legislative Council and the Legislative Auditor, shall determine that portion of the balance remaining in the Property Tax Relief Trust Fund that is in excess of the required reimbursement to the counties and shall certify the excess to the Treasurer of State.

(ii) Beginning December 31, 2005, and on December 31 of each subsequent year, the Treasurer of State shall:

(a) Calculate each county's proportionate share of one million dollars (\$1,000,000) based on the proportions used to reimburse the county for property tax reductions under subsection (a) of this section;

(b) Transfer the amount calculated under subdivision (b)(2)(C)(ii)(a) of this section to the county treasurer for allocation to the county assessor for use by the county assessor for the costs of administering Arkansas Constitution, Amendment 79, including without limitation costs for personnel, equipment, services, and postage used in the administration of Arkansas Constitution, Amendment 79;

(c) Distribute two million dollars (\$2,000,000) from the Property Tax Relief Trust Fund to the counties in the state using the formula stated in § 19-5-602(c)(1)(A); and

(d) Distribute two million dollars (\$2,000,000) from the Property Tax Relief Trust Fund to the municipalities in the state using the formula stated in § 19-5-601(c).

(D)(i)(a) For calendar year 2019, by the last business day of each month following April 9, 2019, the Chief Fiscal Officer of the State shall certify to the Treasurer of State the total amount of moneys credited to the Property Tax Relief Trust Fund since April 9, 2019.

(b) For calendar years after 2019, by the last business day of each month, the Chief Fiscal Officer of the State shall certify to the Treasurer of State the total amount of moneys credited to the Property Tax Relief Trust Fund for the year.

(ii) The Chief Fiscal Officer of the State shall determine annually the estimated amount needed to fund the distributions required under subdivision (b)(2)(C) of this section for the next year.

(iii) When the amount certified by the Chief Fiscal Officer of the State under subdivision (b)(2)(D)(i) of this section exceeds the amount determined under subdivision (b)(2)(D)(ii) of this section for the year:

(a)(1) By July 1, 2019, the Treasurer of State shall make a one-time transfer of eight million two hundred forty-six thousand five hundred seventy-three dollars (\$8,246,573) to the County Voting System Grant Fund.

(2) The transfer required under subdivision (b)(2)(D)(iii)(a)(1) of this section shall occur as soon as practicable after July 1, 2019, if, by July 1, 2019, the amount certified by the Chief Fiscal Officer of the State under subdivision (b)(2)(D)(i) of this section does not exceed the amount determined under subdivision (b)(2)(D)(ii) of this section by the full amount required for the transfer under subdivision (b)(2)(D)(iii)(a)(1) of this section; and

(b) Except as provided in subdivision (b)(2)(D)(iii)(a) of this section, the revenues credited to the Property Tax Relief Trust Fund in excess of the amount determined under subdivision (b)(2)(D)(ii) of this section shall be transferred from the Property Tax Relief Trust Fund to the Catastrophic Reserve Fund.

(3)(A) The Legislative Auditor or his or her designee shall audit the books and records of the county assessor, county collector, or any other party as needed to ensure that the amount of the property tax reduction certified by the county collector is accurate.

(B) The Chief Fiscal Officer of the State may adjust the amount certified by the county collector if it is discovered that the certified amount is incorrect.

(c)(1) On or before June 30 and November 15 of each year, the county collector of each county shall recertify to the Chief Fiscal Officer of the State the amount of the real property tax reduction provided in § 26-26-1118.

(2) The recertification shall reflect the most current total of tax reductions based on corrections and amendments to the records of the county assessor.

(3) After receipt of the recertification from the county collectors, the Chief Fiscal Officer of the State shall redetermine the proportionate share of the total statewide reduction attributable to each county.

History. Acts 2000 (2d Ex. Sess.), Nos. 1 and 2, § 4; 2001, No. 1275, § 3; 2001, No. 1544, § 2; 2005, No. 659, § 1; 2005, No. 1892, § 2; 2019, No. 808, § 1; 2021 (2nd Ex. Sess.), No. 1, § 4; 2021 (2nd Ex. Sess.), No. 2, § 4.

Amendments. The 2021 (2nd Ex. Sess.) amendment by identical acts Nos. 1 and 2 substituted “Catastrophic” for “Long Term” in (b)(2)(D)(iii)(b).

SUBCHAPTER 11 — ASSESSMENT OF PROPERTY GENERALLY

26-26-1110. Mineral rights — Definitions.

CASE NOTES

Valuation.

Appellant showed that the tax assessment of its working interest in several mineral properties exceeded its fair market value. Therefore, the circuit court

erred in dismissing appellant’s complaint for failure to state sufficient facts. SWN Prod. Co. (Ark.), LLC v. Stobaugh, 2021 Ark. App. 324, 634 S.W.3d 551 (2021).

SUBTITLE 5. STATE TAXES

CHAPTER 51

INCOME TAXES

SUBCHAPTER.

2. IMPOSITION OF TAX.
4. COMPUTATION OF TAX LIABILITY.
5. TAX CREDITS GENERALLY.

SUBCHAPTER 2 — IMPOSITION OF TAX

SECTION.

26-51-201. Individuals, trusts, and estates — Definition.

SECTION.

26-51-205. Corporations — Work Force 2000 Development Fund.

Effective Dates. Identical Acts 2021 (2nd Ex. Sess.), Nos. 1 and 2, § 13: “Sections 5, 6, 7, 9, 10, and 11 of this act are effective for tax years beginning on or after January 1, 2022.”

Identical Acts 2021 (2nd Ex. Sess.), Nos. 1 and 2, § 14: Dec. 9, 2021. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act would create significant changes to the state’s income tax laws; that this act would create significant changes to the fiscal policy of the state; that taxpayers and employers plan to meet their obligations on a calendar-year basis; and that this act is immediately necessary to ensure the financial

stability of the state, to allow taxpayers and employers time both to plan for and to implement the changes in law created by this act, and to ensure that the Department of Finance and Administration has sufficient time to update its forms and software and train its personnel in accordance with this act. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by

the Governor and the veto is overridden, the date the last house overrides the veto.”

Identical Acts 2022 (3rd Ex. Sess.), Nos. 1 and 2, § 7(a): “Sections 1, 4, and 6 of this act are effective for tax years beginning on or after January 1, 2022.”

Identical Acts 2022 (3rd Ex. Sess.), Nos. 1 and 2, § 7(b): “Sections 2 and 3 of this act are effective for tax years beginning on or after January 1, 2023.”

Identical Acts 2022 (3rd Ex. Sess.), Nos. 1 and 2, § 8: Aug. 11, 2022. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that Arkansas has a net general revenue surplus in excess of one billion six hundred million dollars (\$1,600,000,000) for the 2022 fiscal year; that the state is collecting too much in tax

revenue; that the state has already enacted future tax cuts, which should be expedited to more immediately reduce the rate of tax collection; and that this act is immediately necessary to return hard-earned money to the hands of Arkansans and to combat increasing inflationary pressures. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

26-51-201. Individuals, trusts, and estates — Definition.

(a) A tax is imposed upon the entire income of every resident, individual, trust, or estate. The tax shall be levied, collected, and paid annually upon the entire net income as defined and computed in this chapter at the following rates, giving effect to the tax credits provided hereafter, in the manner set forth:

(1)(A) Every resident, individual, trust, or estate having net income less than or equal to eighty-four thousand five hundred dollars (\$84,500) shall determine the amount of income tax due under this subsection in accordance with the table set forth below:

From	Less Than or Equal To	Rate
\$0	\$4,999	0%
\$5,000	\$9,999	2%
\$10,000	\$14,299	3%
\$14,300	\$23,599	3.4%
\$23,600	\$84,500	4.9%

(B) Every resident, individual, trust, or estate having net income greater than eighty-four thousand five hundred dollars (\$84,500) shall determine the amount of income tax due under this subsection in accordance with the table set forth below:

From	Less Than or Equal To	Rate
\$0	\$4,300	2%
\$4,301	\$8,500	4%
\$8,501 and above		4.9%

(C) Every resident, individual, trust, or estate having net income greater than or equal to eighty-four thousand five hundred one dollars (\$84,501) but not greater than eighty-nine thousand one hundred dollars (\$89,100) shall reduce the amount of income tax due as determined under subdivision (a)(1)(B) of this section by deducting a bracket adjustment amount in accordance with the table set forth below:

From	Less Than or Equal To	Bracket Adjustment Amount
\$84,501	\$84,600	\$460
\$84,601	\$84,700	\$450
\$84,701	\$84,800	\$440
\$84,801	\$84,900	\$430
\$84,901	\$85,000	\$420
\$85,001	\$85,100	\$410
\$85,101	\$85,200	\$400
\$85,201	\$85,300	\$390
\$85,301	\$85,400	\$380
\$85,401	\$85,500	\$370
\$85,501	\$85,600	\$360
\$85,601	\$85,700	\$350
\$85,701	\$85,800	\$340
\$85,801	\$85,900	\$330
\$85,901	\$86,000	\$320
\$86,001	\$86,100	\$310
\$86,101	\$86,200	\$300
\$86,201	\$86,300	\$290
\$86,301	\$86,400	\$280
\$86,401	\$86,500	\$270
\$86,501	\$86,600	\$260
\$86,601	\$86,700	\$250
\$86,701	\$86,800	\$240
\$86,801	\$86,900	\$230
\$86,901	\$87,000	\$220
\$87,001	\$87,100	\$210
\$87,101	\$87,200	\$200
\$87,201	\$87,300	\$190
\$87,301	\$87,400	\$180
\$87,401	\$87,500	\$170
\$87,501	\$87,600	\$160
\$87,601	\$87,700	\$150

From	Less Than or Equal To	Bracket Adjustment Amount
\$87,701	\$87,800	\$140
\$87,801	\$87,900	\$130
\$87,901	\$88,000	\$120
\$88,001	\$88,100	\$110
\$88,101	\$88,200	\$100
\$88,201	\$88,300	\$90
\$88,301	\$88,400	\$80
\$88,401	\$88,500	\$70
\$88,501	\$88,600	\$60
\$88,601	\$88,700	\$50
\$88,701	\$88,800	\$40
\$88,801	\$88,900	\$30
\$88,901	\$89,000	\$20
\$89,001	\$89,100	\$10
\$89,101 and up		\$0

(2) The tables set forth in subdivision (a)(1) of this section shall be adjusted annually in accordance with the method set forth in subsection (d) of this section.

(b) However, no state income tax shall be due this state from a trust or estate created by a nonresident donor, trustor, or settlor, or by a nonresident testator even though administered by a resident trustee or personal representative except on income derived from:

(1) Lands situated in this state, including gains from any sale thereof;

(2) Any interest in lands situated in this state, including, without limitation, chattels real, including gains from any sale thereof;

(3) Tangible personal property located in Arkansas, including gains from any sale thereof; and

(4) Unincorporated businesses domiciled in Arkansas.

(c) No income tax shall be due the State of Arkansas from a nonresident beneficiary on income received from a trust being administered by a resident trustee except on income derived by the trust from:

(1) Lands situated in this state, including gains from any sale thereof;

(2) Any interest in lands situated in this state, including, without limitation, chattels real, including gains from any sale thereof;

(3) Tangible personal property located in Arkansas, including gains from any sale thereof; and

(4) Unincorporated businesses domiciled in Arkansas.

(d)(1) The Secretary of the Department of Finance and Administration shall prescribe annually a table which shall apply in lieu of the table contained in subsection (a) of this section with respect to each

succeeding taxable year. The secretary shall increase the minimum and maximum dollar amounts for each rate bracket, rounding to the nearest one hundred dollars (\$100), for which a tax is imposed under the table by the cost-of-living adjustment for each calendar year and by not changing the rate applicable to any rate bracket as adjusted.

(2) For purposes of subdivision (d)(1) of this section, the cost-of-living adjustment for a calendar year is the percentage, if any, by which the CPI for the current calendar year exceeds the CPI for the preceding calendar year, not to exceed three percent (3%). The CPI for any calendar year is the average of the Consumer Price Index as of the close of the twelve-month period ending on August 31 of such calendar year. "Consumer Price Index" means the last Consumer Price Index for All Urban Consumers published by the United States Department of Labor.

(3) The new tables, as adjusted annually, shall be used by the secretary in preparing the income tax withholding tables pursuant to § 26-51-907.

(e)(1) Title 26 U.S.C. §§ 671 — 679, as in effect on January 1, 2019, are adopted for purposes of determining whether the grantor or another person shall be treated as the owner of a portion of a trust for Arkansas income tax purposes.

(2) A grantor or other person described in 26 U.S.C. §§ 671 — 679, as in effect on January 1, 2019, is subject to the filing and reporting requirements of § 26-51-806.

History. Acts 1929, No. 118, Art. 2, § 3; Pope's Dig., § 14026; Acts 1957, No. 20, § 1; 1961, No. 34, § 1; 1967, No. 46, § 1; 1971, No. 221, § 1; 1973, No. 215, §§ 1, 2; A.S.A. 1947, § 84-2003; Acts 1997, No. 328, § 5; 2013, No. 1459, §§ 1, 2; 2015, No. 22, § 2; 2015, No. 709, § 1; 2017, No. 78, § 2; 2017, No. 79, § 2; 2019, No. 182, §§ 3, 4; 2019, No. 910, §§ 3704-3706; 2019, No. 1027, § 2; 2021 (2nd Ex. Sess.), No. 1, § 5; 2021 (2nd Ex. Sess.), No. 2, § 5; 2022 (3rd Ex. Sess.), No. 1, § 1; 2022 (3rd Ex. Sess.), No. 2, § 1.

A.C.R.C. Notes. Identical Acts 2022 (3rd Ex. Sess.), Nos. 1 and 2, § 6, provided: "Inflationary relief income tax credit.

"(a) As used in this section, 'resident' means natural persons and includes, for the purpose of determining liability for the tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq., upon or with reference to the income of any taxable year, any person domiciled in the State of Arkansas and any other person who maintains a permanent place of abode within this state and spends in the aggregate more than six (6) months of the taxable

year within this state.

"(b)(1)(A) For the tax year beginning January 1, 2022, a resident individual taxpayer who files an Arkansas full-year resident income tax return, other than a joint return, having net income up to one hundred one thousand dollars (\$101,000) is allowed an income tax credit against the individual income tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq., in accordance with the following table:

From	Less Than or Equal To	Credit Amount
\$1	\$87,000	\$150
\$87,001	\$88,000	\$140
\$88,001	\$89,000	\$130
\$89,001	\$90,000	\$120
\$90,001	\$91,000	\$110
\$91,001	\$92,000	\$100
\$92,001	\$93,000	\$90
\$93,001	\$94,000	\$80
\$94,001	\$95,000	\$70

\$95,001	\$96,000	\$60	\$190,001	\$192,000	\$120
\$96,001	\$97,000	\$50	\$192,001	\$194,000	\$100
\$97,001	\$98,000	\$40	\$194,001	\$196,000	\$80
\$98,001	\$99,000	\$30	\$196,001	\$198,000	\$60
\$99,001	\$100,000	\$20	\$198,001	\$200,000	\$40
\$100,001	\$101,000	\$10	\$200,001	\$202,000	\$20
\$101,001 and up		\$0	\$202,001 and up		\$0

"(B) Spouses filing separately on the same income tax return may each claim one (1) credit under subdivision (b)(1)(A) of this section against the tax on the return of each spouse.

"(2)(A) For the tax year beginning January 1, 2022, resident individual taxpayers who file a joint Arkansas full year resident income tax return having net income up to two hundred two thousand dollars (\$202,000) are allowed an income tax credit against the individual income tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq., in accordance with the following table:

From	Less Than or Equal To	Credit Amount
\$1	\$174,000	\$300
\$174,001	\$176,000	\$280
\$176,001	\$178,000	\$260
\$178,001	\$180,000	\$240
\$180,001	\$182,000	\$220
\$182,001	\$184,000	\$200
\$184,001	\$186,000	\$180
\$186,001	\$188,000	\$160
\$188,001	\$190,000	\$140

"(B) Spouses filing jointly on the same income tax return shall receive only one (1) credit under subdivision (b)(2)(A) of this section against their aggregate tax.

"(c) The credits allowed under subdivisions (b)(1) and (b)(2) of this section cannot be claimed by a taxpayer:

"(1) For any tax year other than the tax year beginning on January 1, 2022; or

"(2) Who files a nonresident return or a part-year resident return.

"(d) The amount of the income tax credit under this section that may be claimed by the taxpayer in a tax year shall not exceed the amount of income tax due by the taxpayer."

Amendments. The 2021 (2nd Ex. Sess.) amendment by identical acts Nos. 1 and 2 rewrote (a).

The 2022 (3rd Ex. Sess.) amendment by identical acts Nos. 1 and 2 rewrote (a).

Effective Dates. Identical Acts 2021 (2nd Ex. Sess.), Nos. 1 and 2, § 13: "Sections 5, 6, 7, 9, 10, and 11 of this act are effective for tax years beginning on or after January 1, 2022."

Identical Acts 2022 (3rd Ex. Sess.), Nos. 1 and 2, § 7(a): "Sections 1, 4, and 6 of this act are effective for tax years beginning on or after January 1, 2022."

26-51-205. Corporations — Work Force 2000 Development Fund.

(a)(1) Every corporation organized under the laws of this state shall pay annually an income tax with respect to carrying on or doing business on the entire net income of the corporation, as now defined by the laws of the State of Arkansas, received by the corporation during the income year, on the following basis:

(A) On the first three thousand dollars (\$3,000) of net income or any part thereof, one percent (1%);

(B) On the second three thousand dollars (\$3,000) of net income or any part thereof, two percent (2%);

(C) On the next five thousand dollars (\$5,000) of net income or any part thereof, three percent (3%);

(D) On the next fourteen thousand dollars (\$14,000) of net income or any part thereof, five percent (5%);

(E) On the next seventy-five thousand dollars (\$75,000) of net income or any part thereof, but not exceeding one hundred thousand dollars (\$100,000), six percent (6%); and

(F) On net income exceeding one hundred thousand dollars (\$100,000), six and five-tenths percent (6.5%).

(2) For the tax year beginning January 1, 2021, every corporation organized under the laws of this state shall pay annually an income tax with respect to carrying on or doing business on the entire net income of the corporation, as now defined by the laws of this state, received by the corporation during the income year, on the following basis:

(A) On the first three thousand dollars (\$3,000) of net income or any part thereof, one percent (1%);

(B) On the next three thousand dollars (\$3,000) of net income or any part thereof, two percent (2%);

(C) On the next five thousand dollars (\$5,000) of net income or any part thereof, three percent (3%);

(D) On the next fourteen thousand dollars (\$14,000) of net income or any part thereof, five percent (5%);

(E) On the next seventy-five thousand dollars (\$75,000) of net income or any part thereof, six percent (6%); and

(F) On net income exceeding one hundred thousand dollars (\$100,000), six and two-tenths percent (6.2%).

(3) For tax years beginning on or after January 1, 2022, every corporation organized under the laws of this state shall pay annually an income tax with respect to carrying on or doing business on the entire net income of the corporation, as now defined by the laws of this state, received by the corporation during the income year, on the following basis:

(A) On the first three thousand dollars (\$3,000) of net income or any part thereof, one percent (1%);

(B) On the next three thousand dollars (\$3,000) of net income or any part thereof, two percent (2%);

(C) On the next five thousand dollars (\$5,000) of net income or any part thereof, three percent (3%);

(D) On the next fourteen thousand dollars (\$14,000) of net income or any part thereof, five percent (5%); and

(E) On net income exceeding twenty-five thousand dollars (\$25,000), five and nine-tenths percent (5.9%).

(4) For tax years beginning on or after January 1, 2023, every corporation organized under the laws of this state shall pay annually an income tax with respect to carrying on or doing business on the entire net income of the corporation, as now defined by the laws of this state, received by the corporation during the income year, on the following basis:

(A) On the first three thousand dollars (\$3,000) of net income or any part thereof, one percent (1%);

(B) On the next three thousand dollars (\$3,000) of net income or any part thereof, two percent (2%);

(C) On the next five thousand dollars (\$5,000) of net income or any part thereof, three percent (3%);

(D) On the next fourteen thousand dollars (\$14,000) of net income or any part thereof, five percent (5%); and

(E) On net income exceeding twenty-five thousand dollars (\$25,000), five and three-tenths percent (5.3%).

(b)(1) Every foreign corporation doing business within the jurisdiction of this state shall pay annually an income tax on the proportion of its entire net income as now determined by the income tax laws of this state, on the following basis:

(A) On the first three thousand dollars (\$3,000) of net income or any part thereof, one percent (1%);

(B) On the second three thousand dollars (\$3,000) of net income or any part thereof, two percent (2%);

(C) On the next five thousand dollars (\$5,000) of net income or any part thereof, three percent (3%);

(D) On the next fourteen thousand dollars (\$14,000) of net income or any part thereof, five percent (5%);

(E) On the next seventy-five thousand dollars (\$75,000) of net income or any part thereof, but not exceeding one hundred thousand dollars (\$100,000), six percent (6%); and

(F) On net income exceeding one hundred thousand dollars (\$100,000), six and five-tenths percent (6.5%).

(2) For the tax year beginning January 1, 2021, every foreign corporation doing business within the jurisdiction of this state shall pay annually an income tax on the proportion of its entire net income as now determined by the income tax laws of this state, on the following basis:

(A) On the first three thousand dollars (\$3,000) of net income or any part thereof, one percent (1%);

(B) On the next three thousand dollars (\$3,000) of net income or any part thereof, two percent (2%);

(C) On the next five thousand dollars (\$5,000) of net income or any part thereof, three percent (3%);

(D) On the next fourteen thousand dollars (\$14,000) of net income or any part thereof, five percent (5%);

(E) On the next seventy-five thousand dollars (\$75,000) of net income or any part thereof, six percent (6%); and

(F) On net income exceeding one hundred thousand dollars (\$100,000), six and two-tenths percent (6.2%).

(3) For tax years beginning on or after January 1, 2022, every foreign corporation doing business within the jurisdiction of this state shall pay annually an income tax on the proportion of its entire net income as now determined by the income tax laws of this state, on the following basis:

(A) On the first three thousand dollars (\$3,000) of net income or any part thereof, one percent (1%);

(B) On the next three thousand dollars (\$3,000) of net income or any part thereof, two percent (2%);

(C) On the next five thousand dollars (\$5,000) of net income or any part thereof, three percent (3%);

(D) On the next fourteen thousand dollars (\$14,000) of net income or any part thereof, five percent (5%); and

(E) On net income exceeding twenty-five thousand dollars (\$25,000), five and nine-tenths percent (5.9%).

(4) For tax years beginning on or after January 1, 2023, every foreign corporation doing business within the jurisdiction of this state shall pay annually an income tax on the proportion of its entire net income as now defined by the income tax laws of this state, on the following basis:

(A) On the first three thousand dollars (\$3,000) of net income or any part thereof, one percent (1%);

(B) On the next three thousand dollars (\$3,000) of net income or any part thereof, two percent (2%);

(C) On the next five thousand dollars (\$5,000) of net income or any part thereof, three percent (3%);

(D) On the next fourteen thousand dollars (\$14,000) of net income or any part thereof, five percent (5%); and

(E) On net income exceeding twenty-five thousand dollars (\$25,000), five and three-tenths percent (5.3%).

(c)(1)(A) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "Work Force 2000 Development Fund".

(B) The Work Force 2000 Development Fund shall consist of those special revenues as specified in subdivision (c)(2) of this section and all other revenues as may be authorized by law.

(2)(A) The Revenue Division of the Department of Finance and Administration shall deposit the funds collected under the provisions of this section for corporate income tax into the State Treasury, there to be credited to the Revenue Holding Fund Account of the State Apportionment Fund.

(B)(i)(a) For each of the state's fiscal years, the Chief Fiscal Officer of the State shall determine as an annual allocation available under the provisions of this section an amount based on the total net revenues, as enumerated in subsections (a) and (b) of this section, which were collected in the immediate past year, multiplied by a factor of six hundred seventy-eight ten thousandths (.0678).

(b) On the last day of each month of the respective fiscal year, the Chief Fiscal Officer of the State shall certify to the Treasurer of State an amount based on one-twelfth ($\frac{1}{12}$) of the annual allocation provided in this section for transfer as specified in subdivision (c)(2)(B)(ii) of this section.

(ii) The Treasurer of State shall then transfer the amount so certified to the Special Revenue Fund Account as part of the gross special revenues.

(iii) After the deductions as set out in § 19-5-203 have been made, the remaining amount shall be credited to the Work Force 2000 Development Fund.

(iv) The remaining corporate income tax collections remaining in the Revenue Holding Fund Account shall be credited to the General Revenue Fund Account of the State Apportionment Fund, there to be distributed with the other gross general revenue collections for that month in accordance with the provisions of § 19-5-201 et seq.

(d)(1) All proceeds derived from the additional tax levied by this section shall be used exclusively for the authorized educational activities of:

(A) Any postsecondary vocational-technical school, technical institute, comprehensive lifelong learning center, technical college, community college; or

(B) Any postsecondary vocational-technical school, technical institute, comprehensive lifelong learning center, or technical college that merges with a two-year branch of a four-year institution, a four-year institution, a technical college, or a community college.

(2)(A) The distribution of the proceeds shall be supervised by the Career Education and Workforce Development Board for the postsecondary vocational-technical schools, technical institutes, and comprehensive lifelong learning centers.

(B) The distribution of the proceeds for technical colleges, community colleges, or any postsecondary vocational-technical school, technical institute, comprehensive lifelong learning center, or technical college that merges with a two-year branch of a four-year institution, a four-year institution, a technical college, or a community college shall continue at the same proportion as those distributions made in fiscal year 1996-1997, excluding one-time capital disbursements and professional development disbursements made in fiscal year 1996-1997 equal to the amount of funds distributed in fiscal year 1998-1999.

(C) Any increase in the amount of funds in the Work Force 2000 Development Fund above the amount distributed in fiscal year 1998-1999 shall be supervised by the Arkansas Higher Education Coordinating Board and shall be distributed after a review of needs including, but not limited to, equity considerations and workforce development and after consultation with the presidents and chancellors of the technical and former technical colleges.

History. Acts 1941, No. 129, § 2; 1969, No. 392, §§ 1, 2; A.S.A. 1947, § 84-2004; Acts 1991, No. 1052, §§ 1-4; 1997, No. 171, § 2; 1999, No. 1315, §§ 2, 3; 2019, No. 822, § 4; 2021 (2nd Ex. Sess.), No. 1, §§ 6, 7; 2021 (2nd Ex. Sess.), No. 2, §§ 6, 7; 2022 (3rd Ex. Sess.), No. 1, §§ 2, 3; 2022 (3rd Ex. Sess.), No. 2, §§ 2, 3.

Amendments. The 2021 (2nd Ex.

Sess.) amendment by identical acts Nos. 1 and 2 added (a)(4)-(6) and (b)(4)-(6).

The 2022 (3rd Ex. Sess.) amendment by identical acts Nos. 1 and 2 rewrote (a)(4) and (b)(4); and deleted (a)(5), (a)(6), (b)(5), and (b)(6).

Effective Dates. Identical Acts 2021 (2nd Ex. Sess.), Nos. 1 and 2, § 13: "Sections 5, 6, 7, 9, 10, and 11 of this act are

effective for tax years beginning on or after January 1, 2022.”
Identical Acts 2022 (3rd Ex. Sess.), Nos. 1 and 2, § 7(b): “Sections 2 and 3 of this

act are effective for tax years beginning on or after January 1, 2023.”

SUBCHAPTER 4 — COMPUTATION OF TAX LIABILITY

SECTION.
26-51-404. Gross income generally.
26-51-428. Depreciation — Deductions —
Expensing of property. [Ef-
fective until contingency

SECTION.
in Acts 2007, No. 613, § 2
is met.]
26-51-430. Deductions — Standard de-
duction — Definition.

Effective Dates. Identical Acts 2021 (2nd Ex. Sess.), Nos. 1 and 2, § 13: “Sections 5, 6, 7, 9, 10, and 11 of this act are effective for tax years beginning on or after January 1, 2022.”
Identical Acts 2021 (2nd Ex. Sess.), Nos. 1 and 2, § 14: Dec. 9, 2021. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act would create significant changes to the state’s income tax laws; that this act would create significant changes to the fiscal policy of the state; that taxpayers and employers plan to meet their obligations on a calendar-year basis; and that this act is immediately necessary to ensure the financial stability of the state, to allow taxpayers and employers time both to plan for and to implement the changes in law created by this act, and to ensure that the Department of Finance and Administration has sufficient time to update its forms and software and train its personnel in accordance with this act. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by

the Governor and the veto is overridden, the date the last house overrides the veto.”
Identical Acts 2022 (3rd Ex. Sess.), Nos. 1 and 2, § 7(a): “Sections 1, 4, and 6 of this act are effective for tax years beginning on or after January 1, 2022.”
Identical Acts 2022 (3rd Ex. Sess.), Nos. 1 and 2, § 8: Aug. 11, 2022. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that Arkansas has a net general revenue surplus in excess of one billion six hundred million dollars (\$1,600,000,000) for the 2022 fiscal year; that the state is collecting too much in tax revenue; that the state has already enacted future tax cuts, which should be expedited to more immediately reduce the rate of tax collection; and that this act is immediately necessary to return hard-earned money to the hands of Arkansans and to combat increasing inflationary pressures. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

26-51-404. Gross income generally.
(a)(1) “Gross income” includes:

(A) Gains, profits, and income derived from salaries, wages, or compensation for personal service of whatever kind and in whatever form paid;

(B) Gains, profits, and income derived from professions, vocations, trades, business, commerce, or sales;

(C) Gains, profits, and income derived from dealings in property, whether real or personal, growing out of the ownership of, use of, or interest in the property;

(D) Gains, profits, and income derived from interest, rent, royalties, dividends, annuities, securities, or the transaction of any business carried on for gain or profit;

(E) Gains or profits and income derived from any source whatever;

(F) Any payments of alimony and separate maintenance received pursuant to a court order;

(G) Except as provided in subdivision (b)(31) of this section, unemployment compensation benefits paid from federal unemployment funds; and

(H) Except as provided in subdivision (b)(32) of this section, unemployment insurance benefits received from unemployment compensation paid under Title IV of the Social Security Act, 42 U.S.C. § 601 et seq., except for unemployment or sickness payments made pursuant to 45 U.S.C. § 352, as it existed on January 1, 2017.

(2) The amount of all such items shall be included in the gross income of the taxable year in which received by the taxpayer.

(3) Any recovery of an amount which was deducted from gross income in a prior year must be treated as taxable income in the year recovered to the extent that the deduction resulted in a reduction in income tax liability.

(4) Title 26 U.S.C. § 117, as in effect on January 2, 2017, regarding the taxability of scholarships, fellowships, grants, and stipends, is adopted for the purpose of clarifying and calculating Arkansas income tax liability.

(b) "Gross income" does not include the following items, which shall be exempt from taxation under the Income Tax Act of 1929, § 26-51-101 et seq.:

(1) Title 26 U.S.C. § 1033, as in effect on January 1, 2009, relating to the exclusion from gross income of gain resulting from the involuntary conversion of a taxpayer's property, is adopted for the purpose of computing Arkansas income tax liability;

(2) Title 26 U.S.C. § 121, as in effect on January 1, 2009, relating to the exclusion from gross income of gain from the sale or exchange of property owned and used as the taxpayer's principal residence, is adopted for the purpose of computing Arkansas income tax liability;

(3) Title 26 U.S.C. § 101, as in effect on January 1, 2007, relating to the exclusion from gross income of proceeds or benefits paid upon the illness or death of the insured, is hereby adopted for the purpose of computing Arkansas income tax liability;

(4) The value of property acquired by gift, bequest, devise, or descent, but the income from such property shall be included in gross income;

(5) Interest upon obligations of the United States or its possessions or upon obligations of the State of Arkansas or any political subdivision of the State of Arkansas;

(6) Any:

(A) Amounts received through accident or health insurance or under workers' compensation acts as compensation for personal injuries or sickness, plus the amount of any damages received, whether by suit or agreement, on account of such injuries or sickness; or

(B) Social Security payments, railroad retirement benefits, and unemployment insurance benefits received from the railroad retirement boards;

(7)(A) Income from domestic corporations when earned from sources without the state, and these sources shall be defined to mean places of manufacture or production and places of merchandising.

(B) When books of account do not clearly and accurately reflect the income earned from sources without the state, the Arkansas income shall be determined by processes or formulas of general apportionment prescribed by the Secretary of the Department of Finance and Administration and approved by the Governor;

(8) Dividends received by a corporation doing business within this state from a subsidiary if at least eighty percent (80%) of the subsidiary's capital stock is owned by a corporation doing business within this state;

(9) In the case of an ordained, commissioned, or licensed minister of a recognized church, 26 U.S.C. § 107, as in effect on January 2, 2013, regarding the rental value of parsonages, is adopted for the purpose of computing Arkansas income tax liability;

(10) Title 26 U.S.C. §§ 108 and 1017, as in effect on January 1, 2019, regarding income from the discharge of indebtedness, are adopted for the purpose of computing Arkansas income tax liability;

(11) Title 26 U.S.C. § 125, as in effect on January 1, 2011, is adopted in computing amounts excludible from gross income under the Income Tax Act of 1929, § 26-51-101 et seq., for payments received under a cafeteria plan;

(12)(A) Title 26 U.S.C. § 129, as in effect on January 1, 2005, regarding the exclusion from income for dependent care assistance, is adopted for the purpose of computing Arkansas income tax liability.

(B) However, no amounts excluded from gross income pursuant to subdivision (b)(12)(A) of this section shall be taken into account in computing the dependent care credit contained in § 26-51-502;

(13) Title 26 U.S.C. § 79, as in effect on January 1, 1989, regarding the exclusion from income for group term life insurance is hereby adopted for the purpose of computing Arkansas income tax liability;

(14) The following sections of the Internal Revenue Code, 26 U.S.C. § 1 et seq., regarding the exclusion from income of disability and health plan payments, are adopted for the purpose of computing Arkansas income tax liability:

(A) Title 26 U.S.C. §§ 104 and 106, as in effect on January 1, 2011; and

(B) Title 26 U.S.C. § 105, as in effect on January 1, 2017;

(15) Title 26 U.S.C. § 82, as in effect on January 1, 1995, regarding the inclusion in gross income of moving expense reimbursements, is adopted for the purpose of computing Arkansas income tax liability;

(16) Title 26 U.S.C. § 119, as in effect on January 1, 1999, regarding the exclusion from gross income of meals or lodging furnished for the convenience of the employer, is adopted for the purpose of computing Arkansas income tax liability;

(17) Title 26 U.S.C. § 126, as in effect on January 1, 1995, regarding the exclusion from gross income of certain cost-sharing payments, is adopted for the purpose of computing Arkansas income tax liability;

(18) Title 26 U.S.C. § 131, as in effect on January 1, 2003, regarding the exclusion from gross income of amounts received by a foster care provider as qualified foster care payments, is adopted for the purpose of computing Arkansas income tax liability;

(19) Title 26 U.S.C. § 132, as in effect on January 1, 2017, regarding the exclusion from income of certain fringe benefits, is adopted for the purpose of computing Arkansas income tax liability;

(20) Title 26 U.S.C. § 127, as in effect on January 1, 2017, regarding the exclusion from gross income for employees whose education expenses were paid by an employer, is adopted for the purpose of computing Arkansas income tax liability;

(21) Interest or dividends earned or capital gains recognized on a long-term intergenerational security trust created pursuant to this subchapter, except as provided in this subchapter;

(22) Interest or dividends earned on an individual development account and matching funds deposited into an individual development account pursuant to the Family Savings Initiative Act, § 20-86-101 et seq.;

(23) Title 26 U.S.C. § 138, as in effect on January 1, 1999, regarding a pilot program permitting eligible senior citizens to establish Medicare Plus Choice medical savings accounts, is adopted for the purpose of computing Arkansas income tax liability;

(24)(A) Title 26 U.S.C. § 72, as in effect on January 1, 2007, relating to the exclusion from gross income of certain proceeds received under life insurance, endowment, and annuity contracts, is adopted for the purpose of computing Arkansas income tax liability.

(B)(i) Annuity income received through an employment-related retirement plan shall not be subject to the provisions of this subsection.

(ii) The income shall instead be subject to the retirement income provisions of § 26-51-307;

(25) Title 26 U.S.C. § 137, as in effect on January 2, 2013, regarding the exclusion from gross income of benefits received under an employer's adoption assistance program, is adopted for the purpose of computing Arkansas income tax liability;

(26) Contributions by an employer to an employee's health savings account within the limitations established in § 26-51-453 shall not be included in the employee's gross income;

(27) Title 26 U.S.C. § 134, as in effect on January 1, 2009, regarding the exclusion from income of qualified military benefits provided to members of the United States Armed Forces, is adopted for the purpose of computing Arkansas income tax liability;

(28) Title 26 U.S.C. § 408(d)(8) as in effect on January 1, 2007, relating to tax-free distributions from individual retirement plans for charitable purposes for taxable years 2006 and 2007, is adopted for the purpose of computing Arkansas income tax liability;

(29) Child support payments shall not be included in the gross income of the recipient;

(30) Title 26 U.S.C. § 118, as in effect on January 1, 2019, regarding the recognition or nonrecognition of income for contributions to capital, is adopted for the purpose of computing Arkansas income tax liability;

(31) Unemployment compensation benefits paid from federal unemployment funds for calendar year 2020 or 2021;

(32) Unemployment insurance benefits described in subdivision (a)(1)(H) of this section and paid for calendar year 2020 or 2021;

(33)(A) The following, which are adopted for purposes of computing Arkansas income tax liability:

(i) Title 15 U.S.C. § 636A(i), as in effect on January 1, 2021, after the redesignation provided by § 304(b) of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, and the amendment provided by § 276(a) of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, regarding the Paycheck Protection Program loan forgiveness;

(ii) Section 276(b) of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, regarding subsequent Paycheck Protection Program loan forgiveness;

(iii) Section 277 of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, concerning the tax treatment of certain emergency financial aid grants; and

(iv) Section 278 of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, concerning the clarification of tax treatment of certain loan forgiveness and other business financial assistance.

(B) Amounts excluded under this subdivision (b)(33) are includable in the adjustments specified in § 26-51-427(2).

(C) The Department of Finance and Administration may provide an exception from any requirement to file an information return with respect to any amount excluded from gross income under this subdivision (b)(33);

(34)(A) Payments received under the Coronavirus Food Assistance Program 1 or Coronavirus Food Assistance Program 2, described in 7 C.F.R. Part 9, as it existed on January 19, 2021, or under any successor program or programs.

(B) A tax deduction or a basis increase shall not be denied as a result of the exclusion from gross income provided in subdivision (b)(34)(A) of this section.

(C) Amounts excluded under this subdivision (b)(34) are includable in the adjustments specified in § 26-51-427(2).

(D) The department may provide an exception from any requirement to file an information return with respect to any amount excluded from gross income under this subdivision (b)(34); and

(35)(A) For a person that is subject to the tax imposed under this chapter and that is a member of an affected business entity, an amount equal to the product of:

(i) The income subject to the tax paid under the Elective Pass-Through Entity Tax Act, § 26-65-101 et seq., by an affected business entity of which the person is a member; and

(ii) The person's pro rata interest, as reported to the secretary under § 26-65-108, in the affected business entity of which the person is a member.

(B)(i)(a) A person that is subject to the tax imposed under this chapter as a resident or part-year resident and that is a member of an affected business entity may exclude from the taxable income subject to the tax imposed by this chapter the person's pro rata share of income subject to a tax paid to another state or the District of Columbia on income of any affected business entity of which the person is a member, if the taxes paid to the other state or the District of Columbia result from a tax that is substantially similar to the tax imposed under the Elective Pass-Through Entity Tax Act, § 26-65-101 et seq.

(b) A tax is substantially similar to the tax imposed under the Elective Pass-Through Entity Tax Act, § 26-65-101 et seq., if it is levied on the aggregate taxable income of each of the persons that have an ownership interest in an entity that is engaged in business for profit.

(ii) The amount excluded under this subdivision (b)(35) shall be calculated in a manner established by the secretary, which shall be consistent with § 26-51-504.

(C) With respect to a company that is a member of an affected business entity, the amount excluded under this subdivision (b)(35) is applied after all other applicable exclusions under this chapter and is not subject to any limits otherwise imposed by law.

(D) The exclusion under this subdivision (b)(35) does not apply to taxes imposed under the Arkansas Income Tax Withholding Act of 1965, § 26-51-901 et seq.

(E) As used in this subdivision (b)(35), "affected business entity" and "member" mean the same as defined in § 26-65-102.

History. Acts 1929, No. 118, Art. 3, § 8; § 1; 1967, No. 222, § 1; 1969, No. 462, Pope's Dig., § 14031; Acts 1939, No. 324, § 1; 1971, No. 226, § 2; 1975, No. 683, § 1; 1941, No. 129, § 6; 1953, No. 230, § 1; 1977, No. 898, § 2; 1981, No. 817, § 1; 1957, No. 144, §§ 1, 2; 1965, No. 570, § 1; 1981, No. 914, § 3; 1983, No. 379,

§§ 3, 6; 1985, No. 486, § 5; A.S.A. 1947, § 84-2008; Acts 1987, No. 382, §§ 4, 7-11, 32; 1987 (1st Ex. Sess.), No. 48, § 1; 1989, No. 826, §§ 9, 10, 18-21; 1995, No. 560, § 1; 1995, No. 732, § 1; 1995, No. 1160, §§ 8, 10, 11; 1995, No. 1303, § 4; 1997, No. 328, § 7; 1997, No. 951, §§ 3-5, 6, 22, 23; 1997, No. 1189, § 1; 1999, No. 1126, §§ 16-23; 1999, No. 1217, § 10; 2001, No. 773, § 3; 2003, No. 663, §§ 2-6; 2005, No. 94, §§ 2, 3; 2005, No. 189, § 2; 2005, No. 675, §§ 2-5; 2007, No. 196, § 1; 2007, No. 218, §§ 16, 17; 2009, No. 372, §§ 4-9; 2011, No. 787, §§ 9-14; 2013, No. 1254, §§ 1-4; 2015, No. 580, §§ 13, 14; 2017, No. 141, §§ 4, 5; 2017, No. 155, §§ 10-14; 2017, No. 884, § 15; 2019, No. 870, §§ 1, 2; 2019, No. 910, § 3712; 2021, No. 154, §§ 1, 2; 2021, No. 248, § 2; 2021, No. 362, § 1; 2021 (2nd Ex. Sess.), No. 1, § 8; 2021 (2nd Ex. Sess.), No. 2, § 8.

A.C.R.C. Notes. Acts 2021, No. 248, § 1, provided: "Legislative intent. It is the intent of the General Assembly to provide relief to small businesses and others affected by the coronavirus 2019 (COVID-19) pandemic and to ease their tax compliance burdens by:

"(1) Amending the Arkansas income tax laws to conform to the federal tax treatment of Paycheck Protection Pro-

gram loan forgiveness and other coronavirus 2019 (COVID-19) relief, as clarified by the recent enactment of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, on December 27, 2020; and

"(2) Providing similar tax treatment to payments made under the Coronavirus Food Assistance Program as described in 7 C.F.R. Part 9, as it existed on January 19, 2021."

Amendments. The 2021 amendment by No. 154 added "Except as provided in subdivision (b)(31) of this section" in (a)(1)(G); added "Except as provided in subdivision (b)(32) of this section" in (a)(1)(H); and added (b)(31) and (32).

The 2021 amendment by No. 248 added (b)(33) and (34).

The 2021 amendment by No. 362 added (b)(35).

The 2021 (2nd Ex. Sess.) amendment by identical acts Nos. 1 and 2, in (b)(34)(A), inserted "1 or Coronavirus Food Assistance Program 2" and added "or under any successor program or programs".

Effective Dates. Acts 2021, No. 248, § 3: "Section 2 of this act is effective for tax years beginning on or after January 1, 2019."

Acts 2021, No. 362, § 3: "Sections 1 and 2 of this act are effective for tax years beginning on or after January 1, 2022."

26-51-428. Depreciation — Deductions — Expensing of property. [Effective until contingency in Acts 2007, No. 613, § 2 is met.]

(a)(1) Title 26 U.S.C. §§ 167 and 168(a)-(j), as in effect on January 1, 2019, are adopted for the purpose of computing Arkansas income tax liability for property purchased in tax years beginning on or after January 1, 2014.

(2) Title 26 U.S.C. § 179, as in effect on January 1, 2022, is adopted for the purpose of computing Arkansas income tax liability for property purchased in tax years beginning on or after January 1, 2022.

(b) The basis on which exhaustion, wear and tear, and obsolescence are to be allowed in respect to any property shall be the adjusted basis provided in § 26-51-411 for the purpose of determining the gain on the sale or other disposition of the property.

(c) Title 26 U.S.C. § 197, as in effect on January 1, 2007, regarding the amortization of goodwill and certain other intangibles, is adopted for the purpose of computing Arkansas income tax liability.

History. Acts 1929, No. 118, Art. 3, § 13; Pope's Dig., § 14036; Acts 1957, No. 147, § 1; 1957, No. 156, § 1; 1983, No.

379, §§ 8-11; 1983, No. 854; §§ 1, 5; A.S.A. 1947, §§ 84-2016, 84-2016.16; Acts 1987, No. 382, §§ 17, 32; 1989, No. 826,

§§ 29, 30; 1991, No. 685, § 7; 1995, No. 1160, § 4; 1997, No. 951, § 12; 1999, No. 1126, § 33; 2007, No. 218, § 26; 2009, No. 372, § 18; 2013, No. 1254, § 10; 2015, No. 580, § 19; 2017, No. 155, § 22; 2019, No. 870, § 8; 2022 (3rd Ex. Sess.), No. 1, § 4; 2022 (3rd Ex. Sess.), No. 2, § 4.

Publisher's Notes. For text effective if contingency in Acts 2007, No. 613, § 2 is met, see the bound volume.

Amendments. The 2022 (3rd Ex. Sess.)

amendment by identical acts Nos. 1 and 2 deleted "and 26 U.S.C. § 179, as in effect on January 1, 2009, regarding depreciation and expensing of property" following "January 1, 2019" in (a)(1); and added (a)(2).

Effective Dates. Identical Acts 2022 (3rd Ex. Sess.), Nos. 1 and 2, § 7(a): "Sections 1, 4, and 6 of this act are effective for tax years beginning on or after January 1, 2022."

26-51-430. Deductions — Standard deduction — Definition.

(a)(1) In lieu of itemizing deductions, each taxpayer may elect to use the standard deduction.

(2) In the case of a married couple, both spouses must elect to use the standard deduction or both spouses must claim itemized deductions, without regard to whether the spouses file separate returns or file separately on the same return.

(b)(1) The standard deduction shall be:

(A) For the tax year beginning January 1, 2014, two thousand dollars (\$2,000) per taxpayer; and

(B) For tax years beginning on and after January 1, 2015, two thousand two hundred dollars (\$2,200) per taxpayer.

(2) In the case of a married couple, each spouse shall be entitled to claim a standard deduction of:

(A) For the tax year beginning January 1, 2014, two thousand dollars (\$2,000); and

(B) For tax years beginning on and after January 1, 2015, two thousand two hundred dollars (\$2,200).

(c)(1) The Secretary of the Department of Finance and Administration shall increase annually the standard deduction provided under subsection (b) of this section by the cost-of-living adjustment for the current calendar year, rounding the amount to the nearest ten dollars (\$10.00).

(2)(A)(i) For purposes of subdivision (c)(1) of this section, the cost-of-living adjustment for a calendar year is the percentage, if any, by which the Consumer Price Index for the current calendar year exceeds the Consumer Price Index for the preceding calendar year, not to exceed three percent (3%).

(ii) If the Consumer Price Index for the current calendar year does not exceed the Consumer Price Index for the preceding calendar year, the standard deduction shall not be adjusted under this subsection for that year.

(B) The Consumer Price Index for a calendar year is the average of the Consumer Price Index as of the close of the twelve-month period ending on August 31 of that calendar year.

(C) As used in this subsection, "Consumer Price Index" means the most recent Consumer Price Index for All Urban Consumers published by the United States Department of Labor.

History. Acts 1929, No. 118, Art. 3, § 13; Pope's Dig., § 14036; Acts 1951, No. 124, § 1; 1957, No. 147, § 1; A.S.A. 1947, § 84-2016; Acts 1997, No. 328, § 1; 2003, No. 997, § 1; 2013, No. 1488, § 1; 2021 (2nd Ex. Sess.), No. 1, § 9; 2021 (2nd Ex. Sess.), No. 2, § 9.

Amendments. The 2021 (2nd Ex.

Sess.) amendment by identical acts Nos. 1 and 2 added (c).

Effective Dates. Identical Acts 2021 (2nd Ex. Sess.), Nos. 1 and 2, § 13: "Sections 5, 6, 7, 9, 10, and 11 of this act are effective for tax years beginning on or after January 1, 2022."

SUBCHAPTER 5 — TAX CREDITS GENERALLY

SECTION.

26-51-501. Personal tax credits — Definitions.

26-51-506. Tax credit for waste reduction, reuse, or recycling equipment — Eligibility — Definitions.

Effective Dates. Identical Acts 2021 (2nd Ex. Sess.), Nos. 1 and 2, § 13: "Sections 5, 6, 7, 9, 10, and 11 of this act are effective for tax years beginning on or after January 1, 2022."

Identical Acts 2021 (2nd Ex. Sess.), Nos. 1 and 2, § 14: Dec. 9, 2021. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act would create significant changes to the state's income tax laws; that this act would create significant changes to the fiscal policy of the state; that taxpayers and employers plan to meet their obligations on a calendar-year basis; and that this act is immediately necessary to ensure the financial stability of the state, to allow taxpayers

and employers time both to plan for and to implement the changes in law created by this act, and to ensure that the Department of Finance and Administration has sufficient time to update its forms and software and train its personnel in accordance with this act. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

26-51-501. Personal tax credits — Definitions.

(a) There shall be deducted from the tax after the tax has been computed as set forth in the Income Tax Act of 1929, § 26-51-101 et seq., a personal tax credit as follows:

(1)(A) For a single individual, the adjusted individual credit.

(B) However, a taxpayer who was blind or deaf at any time during the income year shall be entitled to an additional tax credit of twenty dollars (\$20.00).

(C) A single individual who is deaf-blind shall be entitled to an additional tax credit of forty dollars (\$40.00).

(D) A single individual of sixty-five (65) years of age or older shall be entitled to an additional tax credit of twenty dollars (\$20.00);

(2)(A)(i)(a) For the head of household, surviving spouse, or married spouses living together, the adjusted joint credit.

(b) Spouses living together and filing either jointly or separately on the same income tax form shall receive only one (1) adjusted joint credit against their aggregate tax.

(ii) Subdivision (a)(2)(A)(i) of this section shall apply if the Secretary of the Department of Finance and Administration continues to provide a tax return on which spouses can elect to file jointly or separately on the same return.

(B) However, in the event that either of the spouses is sixty-five (65) years of age or older, each spouse who is sixty-five (65) years of age or older shall be entitled to an additional tax credit of twenty dollars (\$20.00).

(C) However, a spouse filing a separate return on a separate tax form shall receive the adjusted individual credit on each return so filed, but if the spouse is sixty-five (65) years of age or older, each of them who is sixty-five (65) years of age or older shall be entitled to an additional tax credit of twenty dollars (\$20.00).

(D) "Head of household" means the same as defined in 26 U.S.C. § 2(b), as in effect on January 1, 2001.

(E) "Surviving spouse" means the same as defined in 26 U.S.C. § 2(a), as in effect on January 1, 2001;

(3)(A) For each individual, other than a spouse, who has a gross income for the tax year of less than three thousand dollars (\$3,000), who has not filed a joint return with his or her spouse for the taxable year, and who is dependent upon and receives his or her chief support from the taxpayer, the adjusted individual credit.

(B)(i) As used in subdivision (a)(3)(A) of this section, "dependent" means the same as defined in 26 U.S.C. § 152, as in effect on January 1, 2005.

(ii) "Dependent" does not include any individual who is a citizen or subject of a foreign country unless that individual is a resident of the United States or a country contiguous to the United States;

(4) In the case of a fiduciary:

(A) If taxable under § 26-51-203(a)(1), the adjusted individual credit;

(B) If taxable under § 26-51-203(a)(2), the same tax credit as would be allowed the deceased if living; and

(C) If taxable under § 26-51-203(a)(3), the tax credit to which the beneficiary would be entitled;

(5) In the case of a nonresident taxpayer, the taxpayer shall be entitled to that proportion of the tax credit granted by the Income Tax Act of 1929, § 26-51-101 et seq., that the gross income within the state bears to the entire gross income wherever earned; and

(6)(A) An individual taxpayer having net income up to twenty-four thousand seven hundred dollars (\$24,700) who timely files a tax

return is allowed an income tax credit against the income tax imposed by this chapter in accordance with the table set forth below:

From	Less Than or Equal To	Credit Amount
\$0	\$23,600	\$60
\$23,601	\$23,700	\$55
\$23,701	\$23,800	\$50
\$23,801	\$23,900	\$45
\$23,901	\$24,000	\$40
\$24,001	\$24,100	\$35
\$24,101	\$24,200	\$30
\$24,201	\$24,300	\$25
\$24,301	\$24,400	\$20
\$24,401	\$24,500	\$15
\$24,501	\$24,600	\$10
\$24,601	\$24,700	\$5
\$24,701 and up		\$0

(B) The amount of the income tax credit under subdivision (a)(6)(A) of this section that may be claimed by the taxpayer in a tax year shall not exceed the amount of income tax due by the taxpayer.

(C) The table in subdivision (a)(6)(A) of this section shall be adjusted annually in accordance with the method set forth in § 26-51-201(d).

(b)(1) The status of the last day of the income year shall determine the right to the tax credits provided in this section.

(2) However, a taxpayer shall be entitled to tax credits for a husband or wife or a dependent who has died during the income year.

(c)(1) As used in this section, "blind person" means any person:

(A) Who is totally blind, and cannot tell light from darkness;

(B) A person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses; or

(C) Whose fields of vision are so limited that the widest diameter of the visual field subtends an angle no greater than twenty degrees (20°).

(2) For the purposes of subdivision (a)(1) of this section:

(A) An individual is deaf only if his or her average loss in the speech frequencies which are five hundred hertz (500 Hz) to two thousand hertz (2,000 Hz) in the better ear is eighty-six decibels (86 dB), International Organization for Standardization, or worse; and

(B) An individual is deaf-blind only if he or she is both deaf and blind.

(d) For the purposes of this section:

(1) "Adjusted individual credit" shall be twenty dollars (\$20.00); and

(2) "Adjusted joint credit" shall be forty dollars (\$40.00).

(e)(1)(A) Not later than July 15 of each calendar year, the Secretary of the Department of Finance and Administration shall increase the adjusted individual credit and adjusted joint credit by the cost-of-living adjustment for that current calendar year, rounding each amount to the nearest dollar.

(B) The annual cost-of-living adjustment shall apply to the adjusted credits as contained in subdivisions (d)(1) and (2) of this section.

(2)(A) For purposes of subdivision (e)(1) of this section, the cost-of-living adjustment for any calendar year is the percentage, if any, by which the Consumer Price Index for the calendar year preceding the taxable year exceeds the Consumer Price Index for the calendar year 2001.

(B) The Consumer Price Index for any calendar year is the average of the Consumer Price Index as of the close of the twelve-month period ending on August 31 of that calendar year.

(C) As used in this subsection, "Consumer Price Index" means the last Consumer Price Index for All Urban Consumers published by the United States Department of Labor.

(3) The adjusted credit amounts shall apply for tax years beginning on and after January 1, 2003.

(4) The secretary shall not increase the adjusted credit for any calendar year unless the conditions of subsection (f) of this section are met.

(f) The adjusted credit applicable for any calendar year shall not be increased unless:

(1) The net available general revenue forecast provided to the Joint Committee on Economic and Tax Policy under § 10-3-1404(a)(1)(A) in May of the calendar year for which a credit increase is contemplated indicates that net available general revenue growth for the fiscal year beginning in the calendar year for which a credit increase is contemplated will be four and two-tenths percent (4.2%) or greater; and

(2) Either:

(A) The net available general revenues for the fiscal year ending in the calendar year for which a credit increase is contemplated exceed the official forecast by at least five-tenths of one percent (0.5%); or

(B) The net available general revenues for the fiscal year ending in the calendar year for which a credit increase is contemplated exceed the total distributions for that fiscal year under the provisions of the Revenue Stabilization Law, § 19-5-101 et seq.

(g) Title 26 U.S.C. § 151(c)(6), as in effect on January 1, 2003, regarding the tax treatment of kidnapped children, is adopted for the purpose of computing Arkansas income tax liability.

History. Acts 1929, No. 118, Art. 3, § 16; Pope's Dig., § 14039; Acts 1941, No. 129, § 1; 1947, No. 135, § 4; 1951, No. 19, § 1; 1957, No. 20, § 2; 1968 (2nd Ex. Sess.), No. 7, § 1; 1969, No. 219, §§ 1, 3; 1969, No. 243, § 1; 1975, No. 994, § 1; 1977, No. 629, §§ 1, 2; 1979, No. 420, § 1; 1983, No. 506, § 1; A.S.A. 1947, §§ 84-2021, 84-2021a, 84-2021.3; Acts 1987, No. 382, § 24; 1993, No. 785, §§ 11, 12; 2001,

No. 1819, § 1; 2003, No. 663, § 12; 2005, No. 675, § 14; 2013, No. 1224, § 3; 2019, No. 910, §§ 3723-3725; 2021, No. 483, § 7; 2021 (2nd Ex. Sess.), No. 1, § 10; 2021 (2nd Ex. Sess.), No. 2, § 10.

Amendments. The 2021 amendment substituted “married spouses living together” for “a married individual living with husband or wife” in (a)(2)(A)(i)(a); substituted “Spouses” for “A husband and

wife” in (a)(2)(A)(i)(b) and made similar changes throughout the section; deleted (a)(3)(C); and made stylistic changes.

The 2021 (2nd Ex. Sess.) amendment by identical acts Nos. 1 and 2 added (a)(6).

Effective Dates. Identical Acts 2021, Nos. 1 and 2, § 13: “Sections 5, 6, 7, 9, 10, and 11 of this act are effective for tax years beginning on or after January 1, 2022.”

26-51-506. Tax credit for waste reduction, reuse, or recycling equipment — Eligibility — Definitions.

(a) The intent and purpose of this section is to increase capacity in the State of Arkansas for the use of recovered materials.

(b) As used in this section:

(1) “Cost”, in the case of a transfer of title or a finance lease, means the amount of the purchase price, and, in the case of a lease which is not a finance lease but which otherwise qualifies as a purchase under this section, means the amount of the lease payments due to be paid during the term of the lease after deducting any portion of the lease payments attributable to interest, insurance, and taxes;

(2) “Equipment used to service waste reduction, reuse, or recycling equipment” means expenditures, machinery, or equipment that keeps existing machinery or equipment in running order by providing repair, maintenance, adjustment, inspection, or supplies;

(3) “Finance lease” means a lease agreement which is treated as a purchase by a lessee for Arkansas income tax purposes;

(4) “Home scrap” means materials or by-products generated from and commonly reused within an original manufacturing process;

(5) “Maintenance” means expenditures, machinery, or equipment used to keep existing machinery or equipment in a condition that approaches or equates to its original condition;

(6) “Motor vehicle” means a vehicle or trailer that is licensed, or that normally would be licensed, for use on highways in Arkansas;

(7) “Postconsumer waste” means products or other materials generated by a business, governmental entity, or consumer which have served their intended end use and have been recovered from or otherwise diverted from the solid waste stream for the purpose of recycling;

(8) “Preconsumer material” means material generated during any step in the production of a product and recovered or otherwise diverted from the solid waste stream for the purpose of recycling but does not include home scrap;

(9) “Purchase” means a transaction under which title to an item is transferred for consideration or a lease contract for a period of at least three (3) years regardless of whether title to the item is transferred at the end of such period;

(10) “Qualified expansion project” means an expansion of a taxpayer’s facility that:

(A) Is commenced on or after January 1, 2017;

(B) Is conducted on the site of a qualified manufacturer of steel, as defined in § 26-51-1211, § 26-52-901, § 26-52-911, Acts 2013, No. 1084, or Acts 2013, No. 1476;

(C) Has a total investment of at least one billion dollars (\$1,000,000,000);

(D) Is undertaken by a taxpayer that has entered into an agreement with the State of Arkansas in which the taxpayer made a commitment to create at least five hundred (500) net new direct positions and independent direct positions as those terms are defined in Acts 2013, No. 1084, § 8, with an average annual wage of at least seventy-five thousand dollars (\$75,000);

(E) Provides a positive cost-benefit analysis to the state as determined by the Arkansas Economic Development Commission and the Office of Economic Analysis and Tax Research before an incentive agreement between the state and the taxpayer is executed;

(F) Is certified as having a closing date before July 1, 2018, by which the taxpayer has certified and the state has verified that necessary capital acquisition and borrowing for the qualified expansion project has occurred to:

(i) Secure a site;

(ii) Obtain engineering services;

(iii) Purchase equipment; and

(iv) Commence initial construction; and

(G) Is undertaken by a taxpayer that has elected by agreement with the State of Arkansas for the expansion of the taxpayer's facility to be classified as a qualified expansion project under this section;

(11) "Qualified steel specialty products manufacturing facility" means a facility:

(A) For which the taxpayer commenced construction on or after January 1, 2021;

(B) That is located in Arkansas;

(C) That melts scrap steel in an electric arc or similar furnace to produce one (1) or more specialty steel products, including without limitation billets, structural shapes, reinforcing bars, coiled reinforcing bars, wire rods, and merchant bars;

(D) In which the taxpayer has a total investment in excess of two hundred million dollars (\$200,000,000);

(E) That is undertaken by a taxpayer that has entered into an agreement with the State of Arkansas in which the taxpayer made a commitment to create at least one hundred fifty (150) net new direct positions and independent direct positions as those terms are defined in Acts 2013, No. 1084, § 8, with an average annual wage of at least seventy-five thousand dollars (\$75,000);

(F) That provides a positive cost-benefit analysis to the state as determined by the Arkansas Economic Development Commission and the Office of Economic Analysis and Tax Research before an incentive agreement between the state and the taxpayer is executed;

(G) That is certified as having a closing date before July 1, 2023, by which the taxpayer has certified and the state has verified that necessary capital acquisition and borrowing for the qualified steel specialty products manufacturing facility has occurred to:

- (i) Secure a site;
- (ii) Obtain engineering services;
- (iii) Purchase equipment; and
- (iv) Commence initial construction; and

(H) That is undertaken by a taxpayer that has elected by agreement with the State of Arkansas for the facility to be classified as a qualified steel specialty products manufacturing facility under this section;

(12) "Recovered materials" means those materials which have been separated, diverted, or removed from the waste stream for the purpose of recycling and includes preconsumer material and postconsumer waste but not home scrap;

(13) "Recycling" means the systematic collecting, sorting, decontaminating, and returning of waste materials to commerce as commodities for use or exchange;

(14) "Repair" means expenditures, machinery, or equipment used to restore existing machinery or equipment to its original or similar condition and capacity after damage or after deterioration from use;

(15) "Solid waste" means all putrescible and nonputrescible wastes in solid or semisolid form, including, but not limited to, yard or food waste, waste glass, waste metals, waste plastics, wastepapers, waste paperboard, and all other solid or semisolid wastes resulting from industrial, commercial, agricultural, community, and residential activities;

(16)(A)(i) "Waste reduction, reuse, or recycling equipment" means new or used machinery or equipment located in Arkansas on the last day of the taxable year which is operated or used exclusively in Arkansas to collect, separate, process, modify, convert, or treat solid waste so that the resulting product may be used as a raw material or for productive use or to manufacture products containing recovered materials.

(ii) "Waste reduction, reuse, or recycling equipment" also includes devices which are directly connected with or are an integral and necessary part of such machinery or equipment and are necessary for such collection, separation, processing, modification, conversion, treatment, or manufacturing.

(B) "Waste reduction, reuse, or recycling equipment" does not include motor vehicles; and

(17) "Qualified growth project" means a steel mill facility that:

(A) Has common controlling ownership interest with a qualified manufacturer of steel as defined in § 26-51-1211, § 26-52-911, Acts 2013, No. 1084, or Acts 2013, No. 1476, at the time the facility commenced operation;

(B) Is commenced on or after January 1, 2021;

(C) Is conducted on the site of or adjacent to a qualified manufacturer of steel, as defined in § 26-51-1211, § 26-52-911, Acts 2013, No. 1084, or Acts 2013, No. 1476;

(D) Has a total investment of at least two billion dollars (\$2,000,000,000);

(E)(i) Is undertaken by a taxpayer that has entered into an agreement with the State of Arkansas in which the taxpayer made a commitment to create at least seven hundred (700) net new direct positions with an average annual wage of at least one hundred twenty thousand dollars (\$120,000) and two hundred (200) net new independent direct positions with an average annual wage of at least sixty thousand dollars (\$60,000).

(ii) As used in subdivision (b)(17)(E)(i) of this section, "direct positions" and "independent direct positions" mean the same as defined in Acts 2013, No. 1084, § 8;

(F) Provides a positive cost-benefit analysis to the State of Arkansas as determined by the Arkansas Economic Development Commission and the Office of Economic Analysis and Tax Research before an incentive agreement between the state and the taxpayer is executed;

(G) Is certified as having a closing date before July 1, 2023, by which the taxpayer has certified and the state has verified that necessary capital acquisition and borrowing for the qualified growth project have occurred to:

(i) Secure a site;

(ii) Obtain engineering services;

(iii) Purchase equipment; and

(iv) Commence initial construction; and

(H) Is undertaken by a taxpayer that has elected by agreement with the State of Arkansas for the taxpayer's facility to be classified as a qualified growth project under this section.

(c)(1) There shall be allowed a tax credit against the tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq., in an amount as determined in subsection (e) of this section for any taxpayer engaged in the business of reducing, reusing, or recycling solid waste for commercial purposes who purchases waste reduction, reuse, or recycling equipment used exclusively for the purpose of reducing, reusing, or recycling solid waste.

(2)(A)(i) If the tax credits are allowed with respect to a taxpayer pursuant to a qualified Amendment 82 project under the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., that, as of the end of the taxable year in which such tax credits are first allowed, does not have a public retirement system of the State of Arkansas as a proprietor, partner, member, or shareholder, no more than twenty million dollars (\$20,000,000) of credit against tax or an amount equal to the tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq., whichever is less, issued to the taxpayer making the purchases of waste reduction, reuse, or recycling equipment under subdivision (c)(1) of this section may be claimed each tax year.

(ii) Any unused tax credit that cannot be claimed in a tax year by operation of subdivision (c)(2)(A)(i) of this section may be carried forward as allowed by law. If a tax credit amount disallowed by operation of subdivision (c)(2)(A)(i) of this section would otherwise expire, the carry forward period for such unused tax credit shall instead be extended each year, for one (1) additional year at a time, to preserve the ability of the taxpayer to apply the unused tax credit to future tax liability.

(B)(i) If tax credits are allowed under this section with respect to a qualified Amendment 82 project under the Arkansas Amendment 82 Implementation Act, § 15-4-3201 et seq., and any portion of the tax credits under this section would be apportioned to a public retirement system of the State of Arkansas as a proprietor, partner, member, or shareholder of the taxpayer, the public retirement system shall have the possession and control of all tax credits, including any such tax credits otherwise apportioned to the other proprietors, partners, members, shareholders, or beneficiaries allowed under this section.

(ii) The possession and control of the tax credits by the public retirement system under this subdivision (c)(2)(B) shall be confirmed in writing by a legal opinion issued by the Department of Finance and Administration under the department's promulgated rules.

(iii) The public retirement system shall sell or transfer for value the tax credits allowed under this section to the State of Arkansas for eighty percent (80%) of the face value, in lieu of the right of a proprietor, partner, member, shareholder, or beneficiary of the qualified Amendment 82 project to claim the tax credits as allowed pursuant to applicable state law. No more than twenty million dollars (\$20,000,000) of the tax credits in possession and control of the public retirement system with respect to a qualified Amendment 82 project pursuant to subdivision (c)(2)(B)(i) of this section may be sold or transferred each year.

(iv) Any unused tax credit that cannot be sold or transferred in a tax year by the operation of subdivision (c)(2)(B)(iii) of this section may be carried forward as allowed by law. If a tax credit amount disallowed by operation of subdivision (c)(2)(B)(iii) of this section would otherwise expire, the carry forward period for such unused tax credit shall instead be extended each year, for one (1) additional year at a time, to preserve the ability of the public retirement system to sell or transfer all unused tax credits in future years.

(v) Repayment provisions in the applicable Amendment 82 agreement shall continue to apply to tax credits carried forward under subdivision (c)(2)(B)(iv) of this section and in the possession and control of a public retirement system of the State of Arkansas.

(vi) Beginning July 1, 2016, by July 15 of each year, the public retirement system with possession and control of the tax credits under this subdivision (c)(2)(B) shall provide notice to the department of the amount of tax credits, including tax credits pending certification by the Division of Environmental Quality, subject to the

limitations in subdivision (c)(2)(B)(iii) of this section, to be sold or transferred for value.

(vii) The State of Arkansas shall pay the purchase price equal to eighty percent (80%) of the face value of all of the tax credits included in the notice required in subdivision (c)(2)(B)(vi) of this section on or before June 30 of the year following the year in which the notice was provided for all tax credits certified by the Division of Environmental Quality by June 30 of the year following the year in which the notice was provided by warrant from the Economic Development Incentive Fund funded by a transfer from general revenue.

(viii)(a) Tax credits under this section sold or transferred for value to the State of Arkansas are extinguished upon payment of the purchase price as if claimed against the tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq.

(b)(1) In the event the State of Arkansas fails to timely pay the purchase price, as required in subdivision (c)(2)(B)(vii) of this section, for the tax credits included in the notice required in subdivision (c)(2)(B)(vi) of this section, the public retirement system may, before the end of the taxable year following the taxable year in which a failure to pay occurs, sell or transfer for value such tax credits to one (1) or more persons. Such person or persons may claim such tax credits in accordance with applicable law, provided however, any tax credits sold or transferred for value to such person or persons under this subdivision (c)(2)(B)(viii)(b) shall not expire before the later of the end of:

(A) The carry forward period for such tax credits under applicable law; or

(B) The third taxable year following the year in which such tax credits were sold or transferred for value pursuant to this section.

(2) The sale or transfer of tax credits under this subdivision (c)(2)(B)(viii)(b) shall be confirmed in writing by a legal opinion issued by the department under the department's promulgated rules.

(3)(A) Up to eleven million dollars (\$11,000,000) of credit against tax or an amount equal to the tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq., whichever is less, issued to the taxpayer making the purchases of waste reduction, reuse, or recycling equipment under subdivision (c)(1) of this section may be claimed each tax year if the tax credits are allowed with respect to a qualified expansion project:

(i) Of a taxpayer that at the time of the agreement described in subdivision (b)(10)(D) of this section is a proprietorship, partnership, limited liability company, or other business organization treated as a proprietorship or partnership for tax purposes; and

(ii) That, as of the end of the taxable year in which such tax credits are first allowed, does not have a public retirement system of the State of Arkansas as a proprietor, partner, member, or shareholder.

(B) Up to the following amounts of credit against tax or an amount equal to the tax imposed by the Income Tax Act of 1929, § 26-51-101

et seq., whichever is less, issued to the taxpayer making the purchases of waste reduction, reuse, or recycling equipment under subdivision (c)(1) of this section may be claimed each tax year if the tax credits are allowed with respect to a qualified steel specialty products manufacturing facility that is owned by a taxpayer that, at the time of the agreement described in subdivision (b)(11)(E) of this section or a qualified growth project that is owned by a taxpayer that, at the time of the agreement described in subdivision (b)(17)(E) of this section, is a proprietorship, partnership, limited liability company, or other business organization treated as a proprietorship or partnership for tax purposes, and that, as of the end of the taxable year in which such tax credits are first allowed, does not have a public retirement system of the State of Arkansas as a proprietor, partner, member, or shareholder:

(i) For a total investment in the qualified steel specialty products manufacturing facility of at least two hundred million dollars (\$200,000,000) but less than two hundred seventy-five million dollars (\$275,000,000), four million dollars (\$4,000,000);

(ii) For a total investment in the qualified steel specialty products manufacturing facility of at least two hundred seventy-five million dollars (\$275,000,000) but less than three hundred fifty million dollars (\$350,000,000), five million dollars (\$5,000,000);

(iii) For a total investment in the qualified steel specialty products manufacturing facility of at least three hundred fifty million dollars (\$350,000,000), six million five hundred thousand dollars (\$6,500,000); and

(iv) For a qualified growth project, the lesser of the amount allowed under the incentive agreement between the taxpayer and the state or eleven million dollars (\$11,000,000).

(C) Any unused tax credit that cannot be claimed in a tax year by operation of subdivision (c)(3)(A) or subdivision (c)(3)(B) of this section may be carried forward as allowed by law. If a tax credit amount disallowed by operation of subdivision (c)(3)(A) or subdivision (c)(3)(B) of this section would otherwise expire, the carry-forward period for such unused tax credit shall instead be extended each year, for one (1) additional year at a time, to preserve the ability of the taxpayer to apply the unused tax credit to future tax liability.

(D)(i) If tax credits are allowed under this section with respect to a qualified expansion project, a qualified steel specialty products manufacturing facility, or a qualified growth project of a taxpayer that, at the time of the agreement described in subdivision (b)(10)(D) of this section for a qualified expansion project, subdivision (b)(11)(E) of this section for a qualified specialty steel products manufacturing facility, or subdivision (b)(17)(E) of this section for a qualified growth project, is a proprietorship, partnership, limited liability company, or other business organization treated as a proprietorship or partnership for tax purposes, and any portion of the tax credits under this section would be apportioned to a public retirement system of the

State of Arkansas as a proprietor, partner, member, or shareholder of the taxpayer, the public retirement system shall have the possession and control of all tax credits that are subject to subdivision (c)(3)(F)(i)(b) of this section, including any such tax credits otherwise apportioned to the other proprietors, partners, members, shareholders, or beneficiaries allowed under this section.

(ii) The possession and control of the tax credits by the public retirement system under this subdivision (c)(3)(D) shall be confirmed in writing by a legal opinion issued by the department under the rules promulgated by the department.

(iii)(a) The public retirement system shall sell or transfer for value the tax credits allowed under this subdivision (c)(3)(D) to the State of Arkansas for eighty percent (80%) of the face value, in lieu of the right of a proprietor, partner, member, shareholder, or beneficiary of the qualified expansion project, the qualified steel specialty products manufacturing facility, or the qualified growth project to claim the tax credits under this subdivision (c)(3)(D) as allowed pursuant to applicable state law.

(b) Subject to the total recycling tax credit certification for a qualified expansion project, the maximum amount of tax credits allowed under the agreement between the taxpayer and the state, and the annual transfer by the Arkansas Economic Development Commission as agreed by the state and the taxpayer, no more than eleven million dollars (\$11,000,000) of the tax credits in possession and control of the public retirement system with respect to a qualified expansion project under subdivision (c)(3)(D)(i) of this section may be sold or transferred each year.

(c) No more than the following amounts of the tax credits in possession and control of the public retirement system pursuant to this subdivision (c)(3)(D) with respect to a qualified steel specialty products manufacturing facility pursuant to subdivision (c)(3)(D)(i) of this section may be sold or transferred each year:

(1) For a total investment in the qualified steel specialty products manufacturing facility of at least two hundred million dollars (\$200,000,000) but less than two hundred seventy-five million dollars (\$275,000,000), four million dollars (\$4,000,000);

(2) For a total investment in the qualified steel specialty products manufacturing facility of at least two hundred seventy-five million dollars (\$275,000,000) but less than three hundred fifty million dollars (\$350,000,000), five million dollars (\$5,000,000);

(3) For a total investment in the qualified steel specialty products manufacturing facility of at least three hundred fifty million dollars (\$350,000,000), six million five hundred thousand dollars (\$6,500,000); and

(4) Subject to the maximum amount of tax credits allowed to be sold under the agreement between the taxpayer and the state, and the annual transfer by the Arkansas Economic Development Commission as agreed by the state and the taxpayer, eleven million

dollars (\$11,000,000) of the tax credits to be sold or transferred that are in the possession and control of the public retirement system, with respect to a qualified growth project under subdivision (c)(3)(D)(i) of this section.

(iv) Any unused tax credit that cannot be sold or transferred in a tax year by the operation of subdivision (c)(3)(D)(iii) of this section may be carried forward as allowed by law. If a tax credit amount disallowed by operation of subdivision (c)(3)(D)(iii) of this section would otherwise expire, the carry-forward period for such unused tax credit shall instead be extended each year, for one (1) additional year at a time, to preserve the ability of the public retirement system to sell or transfer all unused tax credits in future years.

(v) Between July 1 and July 15 of each year, the public retirement system with possession and control of the tax credits under this subdivision (c)(3)(D) shall provide notice to the department of the amount of tax credits, including tax credits expected to receive certification during the fiscal year by the Division of Environmental Quality, subject to the limitations in subdivision (c)(3)(D)(iii) of this section, to be sold or transferred for value.

(vi) The State of Arkansas shall pay the purchase price equal to eighty percent (80%) of the face value of all of the tax credits included in the notice required in subdivision (c)(3)(D)(v) of this section on or before June 30 of the calendar year following the calendar year in which the notice was provided for all tax credits certified by the Division of Environmental Quality by warrant from the Economic Development Incentive Fund funded by a transfer from general revenue.

(vii)(a) Tax credits under this section sold or transferred for value to the State of Arkansas are extinguished upon payment of the purchase price as if claimed against the tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq.

(b)(1) In the event the State of Arkansas fails to timely pay the purchase price, as required in subdivision (c)(3)(D)(vi) of this section, for the tax credits included in the notice required in subdivision (c)(3)(D)(v) of this section, the public retirement system may, before the end of the taxable year following the taxable year in which a failure to pay occurs, sell or transfer for value such tax credits to one (1) or more persons. Such person or persons may claim such tax credits in accordance with applicable law, provided however, any tax credits sold or transferred for value to such person or persons under this subdivision (c)(3)(D)(vii)(b) shall not expire before the later of the end of:

(A) The carry-forward period for such tax credits under applicable law; or

(B) The third taxable year following the year in which such tax credits were sold or transferred for value pursuant to this section.

(2) The sale or transfer of tax credits under this subdivision (c)(3)(D)(vii)(b) shall be confirmed in writing by a legal opinion issued by the department under the rules promulgated by the department.

(E) An expansion project or a manufacturing facility that does not meet the requirements to be a qualified expansion project, a qualified steel specialty products manufacturing facility, or a qualified growth project is not subject to this subdivision (c)(3) and is eligible to receive the tax credits otherwise provided in this section and § 26-51-1215.

(F)(i)(a) A tax credit under this subdivision (c)(3) shall not be authorized without:

(1) A cost-benefit analysis, including an analysis of any other incentives offered by the State of Arkansas with request to the project subject to the tax credit, as certified by the Director of the Arkansas Economic Development Commission in consultation with the Chief Fiscal Officer of the State; and

(2) The performance and claw back agreement required under subdivision (c)(3)(F)(ii) of this section.

(b) The total amount of tax credits that may be authorized under this subdivision (c)(3) shall not exceed the amount determined by the cost-benefit analysis required under this section.

(ii)(a)(1) A tax credit authorized under this subdivision (c)(3) shall be subject to a performance and claw back agreement between the taxpayer and the Arkansas Economic Development Commission.

(2)(A) The performance and claw back agreement required under this subdivision (c)(3)(F)(ii) shall be subject to the approval of the Chief Fiscal Officer of the State to ensure that the cost-benefit analysis required under this section is met and maintained for a test period of the longer of the life of the tax credits or fourteen (14) years.

(B) However, the test period described in this subdivision (c)(3)(F)(ii) shall not be longer than fifteen (15) years.

(b) The performance and claw back agreement required under this subdivision (c)(3)(F)(ii) shall include without limitation the:

(1) Capital investment for the project;

(2) New full-time direct positions and independent direct positions as those terms are defined in Acts 2013, No. 1084, § 8, created by the project;

(3) Annual salary requirements for the new full-time direct positions and independent direct positions as those terms are defined in Acts 2013, No. 1084, § 8, created by the project;

(4) Timeline for fulfilling the investment of job creation targets stated in the performance and claw back agreement; and

(5) Conditions for the claw back provisions, which shall be triggered if, during the test period stated in this subdivision (c)(3)(F)(ii), the taxpayer:

(A) Does not meet the required targets of the project related to capital investment, job creation, timeline, or annual salary amounts; or

(B) Fails to maintain a positive cost-benefit analysis.

(iii)(a) If a qualified growth project that, at the time of the agreement described in subdivision (b)(17)(E) of this section, is a proprietorship, partnership, limited liability company, or other busi-

ness organization treated as a proprietorship or partnership for tax purposes, and that has any portion of the tax credits under this subdivision (c)(3) that would be apportioned to a public retirement system of the State of Arkansas as a proprietor, partner, member, or shareholder of the taxpayer, would qualify for an amount of recycling tax credit under subsection (e) of this section in excess of the amount authorized in subdivision (c)(3)(F)(i)(b) of this section, the amount of credits in excess of the amount authorized in subdivision (c)(3)(F)(i)(b) of this section shall be:

(1) Acknowledged as part of the incentive agreement executed between the taxpayer and the State of Arkansas;

(2) In the possession and control of the taxpayer making the purchases of waste reduction, reuse, or recycling equipment notwithstanding subdivision (c)(3)(D)(i) of this section; and

(3) Claimed by the taxpayer making the purchases of waste reduction, reuse, or recycling equipment as a credit against each tax year in the lesser of twenty-seven million five hundred thousand dollars (\$27,500,000) or the amount equal to the tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq.

(b) Any unused tax credit that cannot be claimed in a tax year by operation of subdivision (c)(3)(F)(iii)(a)(3) of this section may be carried forward as allowed by law. If the tax credit amount disallowed by operation of subdivision (c)(3)(F)(iii)(a)(3) of this section would otherwise expire, the carry-forward period for such unused tax credit shall be extended each year, for one (1) additional year at a time, to preserve the ability of the taxpayer to apply the unused tax credit to future tax liability.

(d) To claim the benefits of this section, a taxpayer must obtain a certification from the Director of the Division of Environmental Quality certifying to the Revenue Division that:

(1) The taxpayer is engaged in the business of reducing, reusing, or recycling solid waste material for commercial purposes, whether or not for profit;

(2) The machinery or equipment purchased is waste reduction, reuse, or recycling equipment;

(3) The machinery or equipment is being used in the collection, separation, processing, modification, conversion, treatment, or manufacturing of products containing at least fifty percent (50%) recovered materials, provided that at least ten percent (10%) of the recovered materials shall be post-consumer waste; and

(4) The taxpayer has filed a statement with the Director of Environmental Quality acknowledging that the taxpayer will make a good faith effort to utilize post-consumer waste generated in Arkansas as at least ten percent (10%) of the post-consumer waste being used in the equipment, to the extent available at a competitive price.

(e)(1) The amount of the credit allowed under subsection (c) of this section shall be equal to thirty percent (30%) of the cost of waste reduction, reuse, or recycling equipment, including the cost of installation.

(2) The cost of installation shall not include the cost of:

(A) Feasibility studies;

(B) Engineering costs of a building to house the equipment and related machinery; or

(C) Equipment used to service the waste reduction, reuse, or recycling equipment.

(3)(A) The cost of replacement parts which serve only to keep existing waste reduction, reuse, or recycling equipment in its ordinary efficient operating condition shall not be included in determining the amount of the credit.

(B) The cost of replacement of existing waste reduction, reuse, or recycling equipment shall not be included in determining the amount of the credit unless the replacement provides greater capacity for recycling or provides the capability to collect, separate, process, modify, convert, treat, or manufacture additional or a different type of solid waste.

(4) The cost of service contracts, sales tax, maintenance, and repairs shall not be included in determining the amount of the credit.

(f)(1) The taxpayer shall refund the amount of the tax credit determined by subdivision (f)(2) of this section if, within three (3) years of the taxable year for which a credit is allowed:

(A) The waste reduction, reuse, or recycling equipment is removed from Arkansas, is disposed of, is transferred to another person, or the taxpayer otherwise ceases to use the required materials or operate in the manner required by this section; or

(B) The Director of Environmental Quality finds that the taxpayer has demonstrated a pattern of intentional failure to comply with final administrative or judicial orders which clearly indicates a disregard for environmental regulation or a pattern of prohibited conduct which could reasonably be expected to result in adverse environmental impact.

(2) If the provisions of subdivision (f)(1) of this section apply, the taxpayer shall refund the amount of the tax credit which was deducted from income tax liability which exceeds the following amounts:

(A) Within the first year, zero dollars (\$0.00);

(B) Within the second year, an amount equal to thirty-three percent (33%) of the amount of credit allowed; and

(C) Within the third year, an amount equal to sixty-seven percent (67%) of the credit allowed.

(3) Any refund required by subdivision (f)(1)(A) of this section shall apply only to the credit given for the particular waste reduction, reuse, or recycling equipment to which subdivision (f)(1)(A) of this section applies.

(4) Any taxpayer who is required to refund part of a credit pursuant to this subsection shall no longer be eligible to carry forward any amount of that credit which had not been used as of the date such refund is required.

(5) This subsection shall apply to all credits which are certified as a result of applications for certification filed with the Division of Environmental Quality on or after July 1, 1993.

(g)(1) Waste reduction, reuse, or recycling equipment shall only be eligible for one (1) tax credit.

(2) The sale or transfer of waste reduction, reuse, or recycling equipment shall not recreate the eligibility for a tax credit.

(h)(1) In the case of a proprietorship or partnership engaged in the business of waste reduction, reuse, or recycling of solid waste, the amount of the credit determined under this section for any taxable year shall be apportioned to each proprietor or partner in proportion to the amount of income from the entity which the proprietor or partner is required to include as gross income.

(2) In the case of a Subchapter S corporation, as allowed by § 26-51-409, the amount of the credit determined under this section for any taxable year shall be apportioned among the persons who are shareholders of the corporation on the last day of the taxable year based on each person's percentage of ownership.

(3) In the case of an estate or trust:

(A) The amount of the credit determined under this section for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each; and

(B) Any beneficiary to whom any amount has been apportioned under this subsection shall be allowed, subject to limitations contained in this section, a credit under this section for the amount.

(i)(1) The amount of the credit that may be used by a taxpayer for a taxable year may not exceed the amount of state, individual, or corporate income tax otherwise due.

(2) Any unused credit may be carried over for a maximum of three (3) consecutive years following the taxable year in which the credit originated.

(j) A taxpayer who receives a credit under this section shall not be entitled to claim any other state or local tax credit or deduction based on the purchase of the machinery or equipment, except for the deduction for normal depreciation.

(k)(1)(A) The Division of Environmental Quality and the Revenue Division shall promulgate rules as are necessary to administer this section.

(B) These rules may include, but are not limited to, the establishment of technical specifications and of requirements for information and documentation for taxpayers seeking a credit under this section and shall encourage, but not require, the use of Arkansas contractors and post-consumer waste generated in Arkansas in recycling projects which qualify for credits provided by this section.

(2) In order to determine eligibility for the credit or to ensure that the machinery or equipment is being utilized in the required manner, each agency shall have the right to inspect facilities and records of a taxpayer requesting or receiving a credit under this section.

(l) Any person or legal entity aggrieved by a decision of the Director of Environmental Quality under subsection (d) of this section or subdivision (f)(1)(B) of this section may appeal to the Arkansas Pollution Control and Ecology Commission through administrative procedures adopted by the Arkansas Pollution Control and Ecology Commission and to the courts in the manner provided in §§ 8-4-222 — 8-4-229.

History. Acts 1991, No. 748, § 1; 1993, No. 654, § 1; 1999, No. 1164, §§ 185-188; 2007, No. 827, § 218; 2015, No. 862, § 2; 2017, No. 1046, §§ 2, 3; 2019, No. 315, § 2968; 2019, No. 910, § 3253-3257; 2021, No. 483, § 8; 2021, No. 895, §§ 1, 2; 2021 (2nd Ex. Sess.), No. 3, §§ 2-6; 2021 (2nd Ex. Sess.), No. 4, §§ 2-6.

A.C.R.C. Notes. Identical Acts 2021 (2nd Ex. Sess.), Nos. 3 and 4, § 1, provided: "Legislative findings. The General Assembly finds that:

"(1) Arkansas is one (1) of the leading producers of steel in the United States, and Mississippi County, Arkansas is ranked as one (1) of the highest steel-producing counties in the United States;

"(2) The steel industry in the United States is highly competitive, and there are presently rising prices and a high level of demand for raw materials in the domestic market;

"(3) There is a need for the reshoring of well-paying manufacturing jobs, and Arkansas has an unprecedented opportunity to utilize existing incentive programs that are intended to encourage investment in this state to capitalize on this trend;

"(4) When considering where to place new American manufacturing jobs, companies will consider the availability of incentives and credits; and

"(5) In order to continue to attract well-paying manufacturing jobs to the State of Arkansas and encourage continuing capital investment by steel producers in this state, adjustments in the recycling tax credit are appropriate to allow the recycling tax credit to be utilized more fully to accomplish the purpose for which the recycling tax credit is intended."

Amendments. The 2021 amendment by No. 483 inserted "used" in (b)(2).

The 2021 amendment by No. 895 substituted "2021" for "2017" in (b)(11)(A); inserted "or similar" in (b)(11)(C); substituted "2023" for "2018" in (b)(11)(G); and substituted "qualified steel specialty products manufacturing facility" for "qualified expansion project" in the introductory language of (c)(3)(D)(iii)(c).

The 2021 (2nd Ex. Sess.) amendment by identical acts Nos. 3 and 4 added (b)(17); inserted "or a qualified growth project that is owned by a taxpayer that, at the time of the agreement described in subdivision (b)(17)(E) of this section" in the introductory language of (c)(3)(B); added (c)(3)(B)(iv); in (c)(3)(D)(i), inserted "or a qualified growth project", "or subdivision (b)(17)(E) of this section for a qualified growth project", and "that are subject to subdivision (c)(3)(F)(i)(b) of this section"; in (c)(3)(D)(iii)(a), substituted "subdivision (c)(3)(D)" for "section", inserted "or the qualified growth project", and inserted "under this subdivision (c)(3)(D)"; inserted "pursuant to this subdivision (c)(3)(D)" in (c)(3)(D)(iii)(c); added (c)(3)(D)(iii)(c)(4); substituted "Between July 1 and" for "Beginning July 1, 2020, by" at the beginning of (c)(3)(D)(v); deleted "by June 30 of the calendar year following the calendar year in which the notice was provided" following "Division of Environmental Quality" in (c)(3)(D)(vi); inserted "or a qualified growth project" in (c)(3)(E); and added (c)(3)(F)(iii).

Effective Dates. Acts 2021, No. 895, § 3: "Sections 1 and 2 of this act are effective for tax years beginning on or after January 1, 2021."

CHAPTER 52

GROSS RECEIPTS TAX

SUBCHAPTER 4 — EXEMPTIONS

26-52-401. Various products and services — Definitions.

RESEARCH REFERENCES

ALR. Sales and Use Tax Exemption for Kitchen Equipment or Supplies. 62 A.L.R.7th Art. 4 (2021).

Religious Use Tax Exemption of Specific Property Under State or Local Laws. 66 A.L.R.7th Art. 1 (2021).

CHAPTER 54

ARKANSAS CORPORATE FRANCHISE TAX ACT OF 1979

26-54-104. Annual franchise tax.

A.C.R.C. Notes. Identical Acts 2021 (2nd Ex. Sess.), Nos. 7 and 12, § 5, provided: “Additional savings provisions.

“(a) It is the intent of this section to:

“(1) Provide for the transition and continuous operation and effect of additional provisions of Arkansas law related to limited liability companies and other business entities, whether or not specifically referenced in Acts 2021, No. 1041, including without limitation provisions affecting the operation and taxation aspects of limited liability companies and other business entities:

“(A) Under the Uniform Protected Series Act, § 4-37-101 et seq.; and

“(B) Concerning the authorized and unauthorized use of business names; and

“(2) Ratify, validate, confirm, approve, and cure any actions under a codified or uncoded provision described in this section.

“(b) For the period of time after July 27, 2021, and before September 1, 2021, with respect to Acts 2021, No. 1041, §§ 2-25, 27-30, 32, 34, and 36, concerning various definitions and transition provisions from the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., to the Uniform Limited Liability Company Act, § 4-38-101 et seq., the stricken words ‘Small Business Entity Tax Pass Through Act, § 4-38-101 et seq.’, and all stricken provisions of the Small Business Entity Tax Pass Through Act, § 4-38-101 et seq.,

shall be treated as unstricken and operative and the underlined words ‘Uniform Limited Liability Company Act, § 4-38-101 et seq.’ and all underlined provisions of the Uniform Limited Liability Company Act, § 4-38-101 et seq. shall be treated as stricken and inoperative.

“(c) Any action or obligation of any public or private individual or entity that occurred under the following sections after July 27, 2021, and before September 1, 2021, that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, approved, and cured notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1:

“(1) Section 4-37-102(8), amended by Acts 2021, No. 1041, § 2;

“(2) Section 4-37-102(12), amended by Acts 2021, No. 1041, § 3;

“(3) Section 4-37-102(13), amended by Acts 2021, No. 1041, § 4;

“(4) Section 4-37-102(14), amended by Acts 2021, No. 1041, § 5;

“(5) Section 4-37-102(20), amended by Acts 2021, No. 1041, § 6;

“(6) Section 4-37-106, amended by Acts 2021, No. 1041, § 7;

“(7) Section 4-37-107(a)(4), amended by Acts 2021, No. 1041, § 8;

“(8) Section 4-37-108, amended by Acts 2021, No. 1041, § 9;

"(9) Section 4-37-201(c), amended by Acts 2021, No. 1041, § 10;

"(10) Section 4-37-201(d), amended by Acts 2021, No. 1041, § 11;

"(11) Section 4-37-202, amended by Acts 2021, No. 1041, § 12;

"(12) Section 4-37-204(a)(3), amended by Acts 2021, No. 1041, § 13;

"(13) Section 4-37-304(f), amended by Acts 2021, No. 1041, § 14;

"(14) Section 4-37-304(g), amended by Acts 2021, No. 1041, § 15;

"(15) Section 4-37-305, amended by Acts 2021, No. 1041, § 16;

"(16) Section 4-37-403, amended by Acts 2021, No. 1041, § 17;

"(17) Section 4-37-502, amended by Acts 2021, No. 1041, § 18;

"(18) Section 4-37-503, amended by Acts 2021, No. 1041, § 19;

"(19) Section 4-37-604, amended by Acts 2021, No. 1041, § 20;

"(20) Section 4-37-605(1), amended by Acts 2021, No. 1041, § 21;

"(21) Section 4-37-606(1), amended by Acts 2021, No. 1041, § 22;

"(22) Section 4-37-607, amended by Acts 2021, No. 1041, § 23;

"(23) Section 4-37-703(c), amended by Acts 2021, No. 1041, § 24;

"(24) Section 4-37-703(d), amended by Acts 2021, No. 1041, § 25;

"(25) Section 4-42-707(b), amended by Acts 2021, No. 1041, § 27;

"(26) Section 4-47-905(a), amended by Acts 2021, No. 1041, § 28;

"(27) Section 4-70-201(c), amended by Acts 2021, No. 1041, § 29;

"(28) Section 15-4-1215(b), amended by Acts 2021, No. 1041, § 30;

"(29) Section 26-18-303(b)(14)(B), amended by Acts 2021, No. 1041, § 32;

"(30) Section 26-54-104(8), amended by Acts 2021, No. 1041, § 34; and

"(31) Section 26-54-105(h)(2), amended by Acts 2021, No. 1041, § 36.

"(d) Before September 1, 2021, to the extent any codified or uncoded provision of Arkansas law is derived from or depends upon any provision of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., for its meaning or operation:

"(1) The provisions of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., shall be treated as remaining in full force and effect solely for the limited purpose of supplying the requisite meaning or operation to the codified or uncoded provision; and

"(2) Any action or obligation of any public or private individual or entity that occurred after July 27, 2021, and before September 1, 2021, under a codified or uncoded provision of Arkansas law that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, approved, and cured notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1."

26-54-105. Franchise tax reports.

A.C.R.C. Notes. Identical Acts 2021 (2nd Ex. Sess.), Nos. 7 and 12, § 5, provided: "Additional savings provisions.

"(a) It is the intent of this section to:

"(1) Provide for the transition and continuous operation and effect of additional provisions of Arkansas law related to limited liability companies and other business entities, whether or not specifically referenced in Acts 2021, No. 1041, including without limitation provisions affecting the operation and taxation aspects of limited liability companies and other business entities:

"(A) Under the Uniform Protected Series Act, § 4-37-101 et seq.; and

"(B) Concerning the authorized and unauthorized use of business names; and

"(2) Ratify, validate, confirm, approve, and cure any actions under a codified or uncoded provision described in this section.

"(b) For the period of time after July 27, 2021, and before September 1, 2021, with respect to Acts 2021, No. 1041, §§ 2-25, 27-30, 32, 34, and 36, concerning various definitions and transition provisions from the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., to the Uniform Limited Liability Company Act, § 4-38-101 et seq., the stricken words 'Small Business Entity Tax Pass Through

Act, § 4-38-101 et seq., and all stricken provisions of the Small Business Entity Tax Pass Through Act, § 4-38-101 et seq., shall be treated as unstricken and operative and the underlined words 'Uniform Limited Liability Company Act, § 4-38-101 et seq.' and all underlined provisions of the Uniform Limited Liability Company Act, § 4-38-101 et seq. shall be treated as stricken and inoperative.

"(c) Any action or obligation of any public or private individual or entity that occurred under the following sections after July 27, 2021, and before September 1, 2021, that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, approved, and cured notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1:

"(1) Section 4-37-102(8), amended by Acts 2021, No. 1041, § 2;

"(2) Section 4-37-102(12), amended by Acts 2021, No. 1041, § 3;

"(3) Section 4-37-102(13), amended by Acts 2021, No. 1041, § 4;

"(4) Section 4-37-102(14), amended by Acts 2021, No. 1041, § 5;

"(5) Section 4-37-102(20), amended by Acts 2021, No. 1041, § 6;

"(6) Section 4-37-106, amended by Acts 2021, No. 1041, § 7;

"(7) Section 4-37-107(a)(4), amended by Acts 2021, No. 1041, § 8;

"(8) Section 4-37-108, amended by Acts 2021, No. 1041, § 9;

"(9) Section 4-37-201(c), amended by Acts 2021, No. 1041, § 10;

"(10) Section 4-37-201(d), amended by Acts 2021, No. 1041, § 11;

"(11) Section 4-37-202, amended by Acts 2021, No. 1041, § 12;

"(12) Section 4-37-204(a)(3), amended by Acts 2021, No. 1041, § 13;

"(13) Section 4-37-304(f), amended by Acts 2021, No. 1041, § 14;

"(14) Section 4-37-304(g), amended by Acts 2021, No. 1041, § 15;

"(15) Section 4-37-305, amended by Acts 2021, No. 1041, § 16;

"(16) Section 4-37-403, amended by Acts 2021, No. 1041, § 17;

"(17) Section 4-37-502, amended by Acts 2021, No. 1041, § 18;

"(18) Section 4-37-503, amended by Acts 2021, No. 1041, § 19;

"(19) Section 4-37-604, amended by Acts 2021, No. 1041, § 20;

"(20) Section 4-37-605(1), amended by Acts 2021, No. 1041, § 21;

"(21) Section 4-37-606(1), amended by Acts 2021, No. 1041, § 22;

"(22) Section 4-37-607, amended by Acts 2021, No. 1041, § 23;

"(23) Section 4-37-703(c), amended by Acts 2021, No. 1041, § 24;

"(24) Section 4-37-703(d), amended by Acts 2021, No. 1041, § 25;

"(25) Section 4-42-707(b), amended by Acts 2021, No. 1041, § 27;

"(26) Section 4-47-905(a), amended by Acts 2021, No. 1041, § 28;

"(27) Section 4-70-201(c), amended by Acts 2021, No. 1041, § 29;

"(28) Section 15-4-1215(b), amended by Acts 2021, No. 1041, § 30;

"(29) Section 26-18-303(b)(14)(B), amended by Acts 2021, No. 1041, § 32;

"(30) Section 26-54-104(8), amended by Acts 2021, No. 1041, § 34; and

"(31) Section 26-54-105(h)(2), amended by Acts 2021, No. 1041, § 36.

"(d) Before September 1, 2021, to the extent any codified or uncoded provision of Arkansas law is derived from or depends upon any provision of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., for its meaning or operation:

"(1) The provisions of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., shall be treated as remaining in full force and effect solely for the limited purpose of supplying the requisite meaning or operation to the codified or uncoded provision; and

"(2) Any action or obligation of any public or private individual or entity that occurred after July 27, 2021, and before September 1, 2021, under a codified or uncoded provision of Arkansas law that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, approved, and cured notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1."

CHAPTER 60

REAL PROPERTY TRANSFER TAX

SECTION.

26-60-112. Disposition of funds collected.

Effective Dates. Acts 2022, No. 206,
§ 16: July 1, 2022.

26-60-112. Disposition of funds collected.

(a) The revenues from the additional tax levied by § 26-60-105(b) shall be deemed special revenues and shall be deposited and distributed according to § 15-12-103.

(b) The revenues derived from the tax levied by § 26-60-105(a) shall be deposited by the Secretary of the Department of Finance and Administration into the State Treasury, and the Treasurer of State after deducting three percent (3%) of the revenues for distribution to the Constitutional Officers Fund and the State Central Services Fund to be used for the purposes as provided by law shall distribute the net amount of the revenues as follows:

(1) Ten percent (10%) of the remainder shall be distributed as special revenues, as follows:

(A) The first one hundred fifty-seven thousand five hundred dollars (\$157,500) of the remainder during each fiscal year shall be credited to the County Clerks Continuing Education Fund, the Circuit Clerks Continuing Education Fund, and the County Coroners Continuing Education Fund that are established in the State Treasury, to be used for defraying the expenses of training seminars and other educational projects benefiting county and circuit clerks and coroners in this state, as provided by appropriations enacted by the General Assembly and shall be used as follows:

(i)(a) Fifty-two thousand five hundred dollars (\$52,500) for county clerks' continuing education.

(b) Any unexpended balances of moneys designated for county clerks' continuing education shall be retained exclusively for the purpose of county clerks' continuing education;

(ii)(a) Fifty-two thousand five hundred dollars (\$52,500) for circuit clerks' continuing education.

(b) Any unexpended balances of moneys designated for circuit clerks' continuing education shall be retained exclusively for the purpose of circuit clerks' continuing education; and

(iii)(a) Fifty-two thousand five hundred dollars (\$52,500) for county coroners' continuing education.

(b) Any unexpended balances of moneys designated for county coroners' continuing education shall be retained exclusively for the purpose of county coroners' continuing education; and

(B) The remainder of the ten percent (10%) of the remainder available for distribution during each fiscal year shall be credited as special revenues to the County Aid Fund, to be distributed in the manner provided by law to the circuit clerk in the county where the property upon which the tax is paid is situated, to be paid over by the circuit clerk to the county general fund; and

(2) Ninety percent (90%) of the remainder of the revenues shall be distributed as follows:

(A) The entire amount collected during each fiscal year until there has been collected an amount of such tax equaling the amount of tax collected under this chapter during fiscal year 1982-1983 shall be credited as general revenues to be allocated to the various funds participating in the distribution of general revenues in the amount of each such fund as provided by and to be used for the respective purposes set forth in the Revenue Stabilization Law, § 19-5-101 et seq.; and

(B)(i) After making the distribution of the revenues as provided in subdivision (b)(2)(A) of this section, the remainder available each fiscal year shall be credited to the State Central Services Fund to be used for supplementing moneys in the State Central Services Fund for the salaries and expenses of the various court reporters of the state.

(ii) Any amount received over and above this amount shall be credited as special revenues to the County Aid Fund.

History. Acts 1971, No. 275, § 6; 1983, No. 754, § 5; A.S.A. 1947, § 84-4306; Acts 1987, No. 729, § 6; 1993, No. 1054, § 1; 1995, No. 270, § 13; 1995, No. 383, § 2; 1997, No. 788, § 28; 1997, No. 1341, § 27; 1999, No. 361, § 1; 2001, No. 348, § 6; 2007, No. 246, § 3; 2013, No. 551, § 1; 2019, No. 910, § 4301; 2022, No. 206, § 10.

Amendments. The 2022 amendment rewrote (b)(2)(B)(i).

Effective Dates. Acts 2022, No. 206, § 16: July 1, 2022.

CHAPTER 65

ELECTIVE PASS-THROUGH ENTITY TAX ACT

SECTION.

26-65-103. Pass-through entity tax.

A.C.R.C. Notes. Identical Acts 2021 (2nd Ex. Sess.), Nos. 7 and 12, § 1, provided: "Implementation of Uniform Limited Liability Company Act.

"(a) The General Assembly declares that:

"(1) Through inadvertence, Acts 2021, No. 1041, § 1, provided for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., effective ninety (90) days after April 28, 2021, rather than providing for the repeal to

become effective on September 1, 2021, to correspond with the effective date of the Uniform Limited Liability Company Act, § 4-38-101 et seq., enacted by Acts 2021, No. 1041, § 26, and the transition provisions provided therein;

“(2) It is the intent of this act to:

“(A) Treat the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., and all references contained in Acts 2021, No. 1041, to the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, as effective on September 1, 2021;

“(B) Provide for all purposes, including without limitation upon the books and records of the Secretary of State, the continued existence of all limited liability companies formed or registered to do business under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., and continuing to operate thereunder but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, until September 1, 2021, at which time all such limited liability companies will begin operating under the Uniform Limited Liability Company Act, § 4-38-101 et seq., except as otherwise provided by law;

“(C) Ratify all actions taken by a limited liability company that occurred after July 27, 2021, and before September 1, 2021, that would have been authorized or required under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., but for its repeal by Acts 2021, No. 1041, § 1; and

“(D) Require the Secretary of State to continue the registration and other filings of all limited liability companies formed or registered to do business and operating under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., that were not voluntarily or involuntarily dissolved before September 1, 2021, with no change in status except as provided by the Uniform Limited Liability Company Act, § 4-38-101 et seq., enacted by Acts 2021, No. 1041, § 26, or other applicable law;

“(3) A limited liability company formed or registered to do business before September 1, 2021, and not dissolved or terminated retains its status as a limited liability company without interruption until otherwise dissolved or terminated; and

“(4) Section 4-38-110 applies to a limited liability company formed or registered to do business before September 1, 2021, notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1.

“(b) The General Assembly ratifies, validates, confirms, approves, and cures the following that occurred after July 27, 2021, and before September 1, 2021:

“(1) Any act by a limited liability company that would have been authorized or required under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., but for its repeal by Acts 2021, No. 1041, § 1; and

“(2) In reference to a limited liability company, any action of a public or private individual or entity that would have been valid under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., but for its repeal by Acts 2021, No. 1041, § 1.

“(c) The General Assembly recognizes the validity, notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, of the following actions that may have occurred after July 27, 2021, and before September 1, 2021, by a limited liability company if the actions are otherwise valid:

“(1) Issuance of any bonds, notes, warrants, certificates, or other evidences of indebtedness;

“(2) Any action regarding a title to property;

“(3) Any cause of action or other legal claim or right arising from an action taken or a failure to act;

“(4) Creation and approval of any contracts, agreements, licenses, or other documents; and

“(5) Any transaction or other act entered into or performed by a limited liability company that would have been authorized or permitted under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., but for its repeal by Acts 2021, No. 1041, § 1.

“(d) The act or acts of a member or manager of a limited liability company that would have been protected against personal liability under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., but for its repeal by Acts 2021, No. 1041, § 1, shall be protected against

personal liability to the same extent as provided by the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., had it not been repealed by Acts 2021, No. 1041, § 1.

“(e) The General Assembly declares that a limited liability company formed or registered to do business before September 1, 2021, and otherwise in compliance with the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., on September 1, 2021, but for its repeal by Acts 2021, No. 1041, § 1, retains its status as a limited liability company without interruption until otherwise dissolved or terminated.

“(f)(1) This act is not intended to destroy or otherwise disturb any vested rights.

“(2) If a right is found by a court to be a vested right, the court shall uphold the vested right.”

Identical Acts 2021 (2nd Ex. Sess.), Nos. 7 and 12, § 4, provided:

“(a) A limited liability company that registered, filed, or took any action, including without limitation payment for an action or service, with the office of the Secretary of State after July 27, 2021, and before September 1, 2021, is not required to reregister, refile, or make further payment for the same action or service.

“(b) The Secretary of State shall continue the registration and other filings of all limited liability companies formed or registered to do business and existing under the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., that were not voluntarily or involuntarily dissolved before September 1, 2021, with no change in status except as provided by the Uniform Limited Liability Company Act, § 4-38-101 et seq., enacted by Acts 2021, No. 1041, § 26, or other applicable law.”

Identical Acts 2021 (2nd Ex. Sess.), Nos. 7 and 12, § 5, provided: “Additional savings provisions.

“(a) It is the intent of this section to:

“(1) Provide for the transition and continuous operation and effect of additional provisions of Arkansas law related to limited liability companies and other business entities, whether or not specifically referenced in Acts 2021, No. 1041, including without limitation provisions affecting the operation and taxation aspects of limited liability companies and other business entities:

“(A) Under the Uniform Protected Series Act, § 4-37-101 et seq.; and

“(B) Concerning the authorized and unauthorized use of business names; and

“(2) Ratify, validate, confirm, approve, and cure any actions under a codified or uncoded provision described in this section.

“(b) For the period of time after July 27, 2021, and before September 1, 2021, with respect to Acts 2021, No. 1041, §§ 2-25, 27-30, 32, 34, and 36, concerning various definitions and transition provisions from the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., to the Uniform Limited Liability Company Act, § 4-38-101 et seq., the stricken words ‘Small Business Entity Tax Pass Through Act, § 4-38-101 et seq.’, and all stricken provisions of the Small Business Entity Tax Pass Through Act, § 4-38-101 et seq., shall be treated as unstricken and operative and the underlined words ‘Uniform Limited Liability Company Act, § 4-38-101 et seq.’ and all underlined provisions of the Uniform Limited Liability Company Act, § 4-38-101 et seq. shall be treated as stricken and inoperative.

“(c) Any action or obligation of any public or private individual or entity that occurred under the following sections after July 27, 2021, and before September 1, 2021, that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, approved, and cured notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1:

“(1) Section 4-37-102(8), amended by Acts 2021, No. 1041, § 2;

“(2) Section 4-37-102(12), amended by Acts 2021, No. 1041, § 3;

“(3) Section 4-37-102(13), amended by Acts 2021, No. 1041, § 4;

“(4) Section 4-37-102(14), amended by Acts 2021, No. 1041, § 5;

“(5) Section 4-37-102(20), amended by Acts 2021, No. 1041, § 6;

“(6) Section 4-37-106, amended by Acts 2021, No. 1041, § 7;

“(7) Section 4-37-107(a)(4), amended by Acts 2021, No. 1041, § 8;

“(8) Section 4-37-108, amended by Acts 2021, No. 1041, § 9;

"(9) Section 4-37-201(c), amended by Acts 2021, No. 1041, § 10;

"(10) Section 4-37-201(d), amended by Acts 2021, No. 1041, § 11;

"(11) Section 4-37-202, amended by Acts 2021, No. 1041, § 12;

"(12) Section 4-37-204(a)(3), amended by Acts 2021, No. 1041, § 13;

"(13) Section 4-37-304(f), amended by Acts 2021, No. 1041, § 14;

"(14) Section 4-37-304(g), amended by Acts 2021, No. 1041, § 15;

"(15) Section 4-37-305, amended by Acts 2021, No. 1041, § 16;

"(16) Section 4-37-403, amended by Acts 2021, No. 1041, § 17;

"(17) Section 4-37-502, amended by Acts 2021, No. 1041, § 18;

"(18) Section 4-37-503, amended by Acts 2021, No. 1041, § 19;

"(19) Section 4-37-604, amended by Acts 2021, No. 1041, § 20;

"(20) Section 4-37-605(1), amended by Acts 2021, No. 1041, § 21;

"(21) Section 4-37-606(1), amended by Acts 2021, No. 1041, § 22;

"(22) Section 4-37-607, amended by Acts 2021, No. 1041, § 23;

"(23) Section 4-37-703(c), amended by Acts 2021, No. 1041, § 24;

"(24) Section 4-37-703(d), amended by Acts 2021, No. 1041, § 25;

"(25) Section 4-42-707(b), amended by Acts 2021, No. 1041, § 27;

"(26) Section 4-47-905(a), amended by Acts 2021, No. 1041, § 28;

"(27) Section 4-70-201(c), amended by Acts 2021, No. 1041, § 29;

"(28) Section 15-4-1215(b), amended by Acts 2021, No. 1041, § 30;

"(29) Section 26-18-303(b)(14)(B), amended by Acts 2021, No. 1041, § 32;

"(30) Section 26-54-104(8), amended by Acts 2021, No. 1041, § 34; and

"(31) Section 26-54-105(h)(2), amended by Acts 2021, No. 1041, § 36.

"(d) Before September 1, 2021, to the extent any codified or uncoded provision of Arkansas law is derived from or depends upon any provision of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., for its meaning or operation:

"(1) The provisions of the Small Business Entity Tax Pass Through Act, § 4-32-

101 et seq., shall be treated as remaining in full force and effect solely for the limited purpose of supplying the requisite meaning or operation to the codified or uncoded provision; and

"(2) Any action or obligation of any public or private individual or entity that occurred after July 27, 2021, and before September 1, 2021, under a codified or uncoded provision of Arkansas law that would have been valid and effective but for the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1, is ratified, validated, confirmed, approved, and cured notwithstanding the repeal of the Small Business Entity Tax Pass Through Act, § 4-32-101 et seq., by Acts 2021, No. 1041, § 1."

Effective Dates. Identical Acts 2021 (2nd Ex. Sess.), Nos. 1 and 2, § 13: "Sections 5, 6, 7, 9, 10, and 11 of this act are effective for tax years beginning on or after January 1, 2022."

Identical Acts 2021 (2nd Ex. Sess.), Nos. 1 and 2, § 14: Dec. 9, 2021. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act would create significant changes to the state's income tax laws; that this act would create significant changes to the fiscal policy of the state; that taxpayers and employers plan to meet their obligations on a calendar-year basis; and that this act is immediately necessary to ensure the financial stability of the state, to allow taxpayers and employers time both to plan for and to implement the changes in law created by this act, and to ensure that the Department of Finance and Administration has sufficient time to update its forms and software and train its personnel in accordance with this act. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

26-65-103. Pass-through entity tax.

(a) Before the fifteenth day of the fourth month of the taxable year, an affected business entity shall pay to the Secretary of the Department of Finance and Administration the tax determined under this section.

(b)(1)(A) Except as provided in subdivision (b)(1)(B) of this section, a tax equal to the top marginal income-tax rate under § 26-51-201(a) is levied on the net taxable income of an affected business entity, as determined under Chapter 51 of this title, including any applicable basis adjustments, to the extent that the income is reported to the secretary as business income derived from the affected business entity.

(B) For an affected business entity that has a net capital gain, the rate of tax on the capital gain shall be fifty percent (50%) of the rate specified in subdivision (b)(1)(A) of this section.

(2) If the tax levied under subdivision (b)(1) of this section results in a net operating loss for an affected business entity, the affected business entity may carry forward the net operating loss in the same manner and for the same number of years as provided under § 26-51-427.

(3) An affected business entity that is a member of another affected business entity shall subtract its distributive share of the income or add its distributive share of the loss from the other affected business entity to the extent that the income or loss was derived from or connected with sources within this state.

(4) A nonresident individual who is a member of an affected business entity is not required to file an individual income tax return if, for the taxable year, the only source of income derived from or connected with sources within this state for the member or, if a joint income tax return is filed, the member and his or her spouse, is from one (1) or more affected business entities and each affected business entity files and pays the taxes due under this section.

(5) An affected business entity that files a return in Arkansas and has income from both within and without Arkansas shall apportion income to Arkansas under the Uniform Division of Income for Tax Purposes Act, § 26-51-701 et seq.

(6) An affected business entity that receives or earns a tax credit to be applied against the income tax imposed under Chapter 51 of this title may instead elect to apply the tax credit to reduce the tax imposed under this chapter, subject to any limitations applicable to the tax credit.

(c) An affected business entity shall report to the members of the affected business entity, for each taxable year, each member's respective pro rata share of the tax imposed under this section on the affected business entity based on the pro rata interest of each member as reported to the secretary under § 26-65-108.

History. Acts 2021, No. 362, § 2; 2021 (2nd Ex. Sess.), No. 1, § 11; 2021 (2nd Ex. Sess.), No. 2, § 11.

Amendments. The 2021 (2nd Ex. Sess.) amendment by identical acts Nos. 1 and 2 substituted "equal to the top mar-

ginal income-tax rate under § 26-51-201(a)" for "of five and nine-tenths percent (5.9%)" in (b)(1)(A).

Effective Dates. Acts 2021, No. 362, § 3: "Sections 1 and 2 of this act are effective for tax years beginning on or after January 1, 2022."

Identical Acts 2021 (2nd Ex. Sess.), Nos. 1 and 2, § 13: "Sections 5, 6, 7, 9, 10, and 11 of this act are effective for tax years beginning on or after January 1, 2022."

SUBTITLE 6. LOCAL TAXES

CHAPTER 75

MUNICIPAL SALES AND USE TAXES

SUBCHAPTER 6 — ADVERTISING AND PROMOTION COMMISSION ACT

26-75-605. Advertising and promotion commissions.

CASE NOTES

Members.

Appointment of two commissioners to a municipal advertising and promotion commission under subdivision (a)(2) of this section despite their being sitting city council members was not barred by § 14-42-107(a)(2) because that section is a statute of general applicability and subdivision (a)(2) of this section is more specific to the issue in this appeal, and not only allows the appointment of city council members to an advertising and promotion commission, but requires them. *Johnson v. Wright*, 2022 Ark. 57, 640 S.W.3d 401 (2022).

Circuit court correctly determined that

the appointment of one of the municipal advertising and promotion commission commissioners under subdivision (a)(3) of this section, who was a resident of the county but not of the city, was not prohibited under Ark. Const., Art. 19, § 3; there is no statute requiring that a commissioner has to be a resident of the city, the commissioner was appointed to the position (not elected nor appointed to fill a vacancy in an elected office), and the position was authorized not only by statute but also by a municipal ordinance. *Johnson v. Wright*, 2022 Ark. 57, 640 S.W.3d 401 (2022).

TITLE 27

TRANSPORTATION

SUBTITLE 4. MOTOR VEHICULAR TRAFFIC

CHAPTER.

50. PENALTIES AND ENFORCEMENT.

SUBTITLE 4. MOTOR VEHICULAR TRAFFIC**CHAPTER 50****PENALTIES AND ENFORCEMENT**

SUBCHAPTER.

3. OFFENSES AND PENALTIES GENERALLY.**SUBCHAPTER 3 — OFFENSES AND PENALTIES GENERALLY**

SECTION.

27-50-309. Racing or observing a drag race as a spectator on a public highway — Definitions.

27-50-309. Racing or observing a drag race as a spectator on a public highway — Definitions.

(a) As used in this section:

(1) "Drag race" means:

(A) The operation of two (2) or more motor vehicles from a point side-by-side at accelerating speeds in a competitive attempt to outdistance each other; and

(B) The operation of one (1) or more motor vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of the motor vehicle or motor vehicles within a certain distance or time limit;

(2) "Public highway" means a public road, county road, city street, or any paved or unpaved roadway that is owned or maintained by a public entity or municipality; and

(3) "Race" means the operation or use of one (1) or more motor vehicles traveling with excessive or at dangerous speeds in an attempt to:

(A) Outgain or outdistance another motor vehicle or motor vehicles;

(B) Arrive at a given destination ahead of another motor vehicle or motor vehicles; or

(C) Test the physical stamina or endurance of drivers over long-distance driving routes.

(b)(1) A person commits the crime of racing on a public highway if he or she knowingly:

(A) Commits a violation of § 27-50-302(1)-(9) and operates a motor vehicle in a race or drag race on a public highway; or

(B) Participates in, promotes, solicits, or collects moneys at any location for any race or drag race on a public highway.

(2)(A) A first offense of the crime of racing on a public highway is a Class A misdemeanor.

(B) A subsequent offense of the crime of racing on a public highway, committed within five (5) years of a prior offense:

(i) Is a Class A misdemeanor; and

(ii) Shall result upon conviction in the suspension of the person's driver's license for a period of six (6) months.

(c)(1) A person commits the crime of felony racing on a public highway if he or she violates subdivision (b)(1) of this section and:

(A) Commission of the violation serves to impede or stop the flow of traffic traveling on the public highway in the same or opposite direction; or

(B) Is part of a gathering of ten (10) or more individuals engaging in the same or similar behavior.

(2) Felony racing on a public highway is a Class D felony.

(d)(1) A person commits the crime of observing a drag race as a spectator on a public highway if he or she with the purpose to observe a drag race on a public highway:

(A) Is knowingly present at and purposely observes the drag race or the preparation for the drag race; and

(B) Purposely demonstrates through active encouragement, assistance, facilitation, urging, or a request that the drag race commence.

(2) Observing a drag race is a Class B misdemeanor.

History. Acts 1911, No. 134, § 11, p. 94; C. & M. Dig., § 7427; Pope's Dig., § 6639; Acts 1965, No. 100, § 1; A.S.A. 1947, § 75-603; Acts 2005, No. 1568, § 3; 2009, No. 826, § 2; 2021, No. 1061, § 2.

Publisher's Notes. This section is being set out to reflect a correction to a reference in (b)(1)(A).

CHAPTER 51

OPERATION OF VEHICLES — RULES OF THE ROAD

SUBCHAPTER 3 — DRIVING, OVERTAKING, AND PASSING

27-51-302. Driving on roadways laned for traffic.

CASE NOTES

Traffic Stop.

Even if each driver did ascertain that it was safe to cross the lines marking their lane multiple times, the police officers' observations provided a reasonable basis

for the belief that the drivers were violating this section, and the stop was not unconstitutional. *United States v. Williams*, 39 F.4th 1034 (8th Cir. 2022).

TITLE 28

WILLS, ESTATES, AND FIDUCIARY RELATIONSHIPS

SUBTITLE 1. GENERAL PROVISIONS

CHAPTER 1

GENERAL PROVISIONS

28-1-115. Vacation and modification of orders.

CASE NOTES

Estoppel.

Because a grandchild did not attack the trial court's finding that he was estopped from challenging the distribution of the decedent's estate, the issue was considered abandoned on appeal; the trial court noted that the waiver of claims that his

mother had signed was justifiably relied on by the settling and paying parties in the litigation, by the court in ordering the settlement and distribution, and by the personal representative in distributing the proceeds. *Watkins v. Adams*, 2021 Ark. App. 261 (2021).

CHAPTER 2

DISCLAIMER OF PROPERTY

SUBCHAPTER 2 — UNIFORM DISCLAIMER OF PROPERTY INTERESTS ACT (1999)

RESEARCH REFERENCES

ALR. Uniform Disclaimer of Property Interests Act (UDPIA). 60 A.L.R.7th Art. 2 (2021).

28-2-204. Subchapter supplemented by other law.

CASE NOTES

Waiver.

Trial court did not clearly err in finding that a grandchild's mother waived her claims and interest in a decedent's estate in favor of her siblings and that the grandchild did not have any interest in the decedent's estate and therefore lacked standing to challenge the distribution; the

mother executed a waiver in favor of her siblings, and the trial court found that there was no evidence of fraud. The trial court also found that the grandchild was estopped to challenge the distribution, and that finding was not attacked by the grandchild. *Watkins v. Adams*, 2021 Ark. App. 261 (2021).

28-2-205. Power to disclaim — General requirements, when irrevocable.

RESEARCH REFERENCES

ALR. Uniform Disclaimer of Property Interests Act (UDPIA). 60 A.L.R.7th Art. 2 (2021).

CASE NOTES

Waiver.

Trial court did not clearly err in finding that a grandchild's mother waived her claims and interest in a decedent's estate in favor of her siblings and that the grandchild did not have any interest in the decedent's estate and therefore lacked standing to challenge the distribution; the

mother executed a waiver in favor of her siblings, and the trial court found that there was no evidence of fraud. The trial court also found that the grandchild was estopped to challenge the distribution, and that finding was not attacked by the grandchild. *Watkins v. Adams*, 2021 Ark. App. 261 (2021).

28-2-206. Disclaimer of interest in property.

RESEARCH REFERENCES

ALR. Uniform Disclaimer of Property Interests Act (UDPIA). 60 A.L.R.7th Art. 2 (2021).

CASE NOTES

Waiver.

Trial court did not clearly err in finding that a grandchild's mother waived her claims and interest in a decedent's estate in favor of her siblings and that the grandchild did not have any interest in the decedent's estate and therefore lacked standing to challenge the distribution; the

mother executed a waiver in favor of her siblings, and the trial court found that there was no evidence of fraud. The trial court also found that the grandchild was estopped to challenge the distribution, and that finding was not attacked by the grandchild. *Watkins v. Adams*, 2021 Ark. App. 261 (2021).

28-2-207. Disclaimer of rights of survivorship in jointly held property.

RESEARCH REFERENCES

ALR. Uniform Disclaimer of Property Interests Act (UDPIA). 60 A.L.R.7th Art. 2 (2021).

28-2-208. Disclaimer of interest by trustee.**RESEARCH REFERENCES**

ALR. Uniform Disclaimer of Property Interests Act (UDPIA). 60 A.L.R.7th Art. 2 (2021).

28-2-209. Disclaimer of power of appointment or other power not held in fiduciary capacity.**RESEARCH REFERENCES**

ALR. Uniform Disclaimer of Property Interests Act (UDPIA). 60 A.L.R.7th Art. 2 (2021).

28-2-210. Disclaimer by appointee, object, or taker in default of exercise of power of appointment.**RESEARCH REFERENCES**

ALR. Uniform Disclaimer of Property Interests Act (UDPIA). 60 A.L.R.7th Art. 2 (2021).

28-2-211. Disclaimer of power held in fiduciary capacity.**RESEARCH REFERENCES**

ALR. Uniform Disclaimer of Property Interests Act (UDPIA). 60 A.L.R.7th Art. 2 (2021).

SUBTITLE 2. DESCENT AND DISTRIBUTION**CHAPTER 9****INTESTATE SUCCESSION****SUBCHAPTER 2 — ARKANSAS INHERITANCE CODE OF 1969****28-9-209. Legitimacy of child — Effect.****RESEARCH REFERENCES**

ALR. What Constitutes “Notorious Recognition” or “Notorious Acknowledgment” in Context of Parentage-Related Claims. 69 A.L.R.7th Art. 7 (2022).

SUBTITLE 4. ADMINISTRATION OF DECEDENTS' ESTATES

CHAPTER 40

PROBATE AND GRANT OF ADMINISTRATION

SUBCHAPTER 1 — PROCEEDINGS GENERALLY

28-40-101. Character of proceeding.

CASE NOTES

Failure to Notify Heirs.

A hearing on a petition to probate a will and appoint an executor is only required if the petition is opposed or if there is a demand for notice, and the sons did not sufficiently oppose the probating of their father's will or the appointment of their

stepmother as executrix in order to be entitled to a hearing; therefore, the circuit court had jurisdiction when it probated the will despite the lack of notice to the sons. *Haverstick v. Haverstick* (In re Estate of Haverstick), 2021 Ark. 233, 635 S.W.3d 482 (2021).

28-40-110. Notice of hearing on petitions.

CASE NOTES

Duty to Give Notice.

A hearing on a petition to probate a will and appoint an executor is only required if the petition is opposed or if there is a demand for notice, and the sons did not sufficiently oppose the probating of their father's will or the appointment of their

stepmother as executrix in order to be entitled to a hearing; therefore, the circuit court had jurisdiction when it probated the will despite the lack of notice to the sons. *Haverstick v. Haverstick* (In re Estate of Haverstick), 2021 Ark. 233, 635 S.W.3d 482 (2021).

CHAPTER 48

PERSONAL REPRESENTATIVES

SUBCHAPTER 1 — GENERAL PROVISIONS

28-48-101. Persons entitled to domiciliary letters.

RESEARCH REFERENCES

ALR. Court's Authority or Jurisdiction with Respect to Nonintervention Estate to

Intervene or Limit Powers of Executor. 65 A.L.R.7th Art. 4 (2021).

CHAPTER 53
DISTRIBUTION AND DISCHARGE

SUBCHAPTER 1 — GENERAL PROVISIONS

28-53-110. Improper distributions.

CASE NOTES

Estoppel.

Because a grandchild did not attack the trial court’s finding that he was estopped from challenging the distribution of the decedent’s estate, the issue was considered abandoned on appeal; the trial court noted that the waiver of claims that his

mother had signed was justifiably relied on by the settling and paying parties in the litigation, by the court in ordering the settlement and distribution, and by the personal representative in distributing the proceeds. *Watkins v. Adams*, 2021 Ark. App. 261 (2021).

SUBTITLE 5. FIDUCIARY RELATIONSHIPS

CHAPTER 65
GUARDIANS GENERALLY

SUBCHAPTER 2 — APPOINTMENT

28-65-203. Qualifications of guardian.

CASE NOTES

Requirements for Appointment.

Adoption severs all familial ties, including any “relative” status that might otherwise exist under this section. Thus, children’s maternal grandmother, who was a convicted felon, was no longer a “relative” eligible to be the children’s guardian after

the children’s adult mother was adopted by her friends. However the children’s maternal grandfather was still eligible to remain the children’s guardian. *Tapp v. Luper*, 2021 Ark. App. 444, 638 S.W.3d 18 (2021).

28-65-204. Preferences.

CASE NOTES

ANALYSIS

Best Interest of Ward.
Non-Spouse.
Relatives Other Than Parent.

Best Interest of Ward.

Circuit court did not abuse its discretion in appointing non-relatives as a minor’s guardians because this section did not designate a blood relative preference, but

required the court to give due regard to certain factors, which the court did here in making its ultimate determination in the child’s best interests. *KM v. Malone-Durham*, 2022 Ark. App. 112, 642 S.W.3d 275 (2022).

Non-Spouse.

Circuit court did not err in awarding guardianship of appellant’s husband to appellee, who was married to the ward’s

niece, because this section did not designate a preference for spouses and the circuit court indicated it considered the wife, but ultimately found appellee should be appointed guardian. *Gill v. Sullivan*, 2022 Ark. App. 243, 646 S.W.3d 387 (2022).

Relatives Other Than Parent.

Circuit court did not err in denying the grandmother's petition for guardianship of a child conceived by artificial insemination; the circuit court found that the child had two fit parents who both sought custody and that custody was to be determined on the basis of the child's best

interest. *Allen v. Allen*, 2021 Ark. App. 263 (2021).

Circuit court properly appointed a child's paternal grandmother and her husband as permanent guardians; the mother did not produce any credible evidence that the husband was out of town when the mother was abused in front of the child, and the child would have been at risk of harm in the mother's custody where she chose to marry a person who had a history of sexual and physical violence and substance abuse and who had his parental rights to other children terminated. *Galli v. Jones*, 2021 Ark. App. 302, 627 S.W.3d 434 (2021).

28-65-210. Proof required for appointment of guardian.

CASE NOTES

Grandparent.

Circuit court did not err in denying the grandmother's petition for guardianship of a child conceived by artificial insemination; the circuit court found that the child had two fit parents who both sought custody and that custody was to be determined on the basis of the child's best interest. *Allen v. Allen*, 2021 Ark. App. 263 (2021).

Circuit court did not err by finding that it was in a child's best interest to appoint the paternal grandmother as his guardian because the child had a relationship with her and had lived with his father for an extended period; the paternal grandmother presented evidence concerning the maternal grandparents' inattention to the

child's health, and there was evidence that when they had custody of the child they denied the paternal grandmother and mother contact with him. *Z.S. v. Nelson*, 2022 Ark. App. 70, 641 S.W.3d 653 (2022).

Circuit court did not err by applying a best-interest-of-the-mother standard in appointing the paternal grandmother as a child's guardian because it merely considered the child's relationship with his biological mother in determining his best interest; there was evidence that the maternal grandparents had denied the mother contact with the child while the paternal grandmother had permitted her supervised visits. *Z.S. v. Nelson*, 2022 Ark. App. 70, 641 S.W.3d 653 (2022).

28-65-219. Substitution — Removal.

RESEARCH REFERENCES

ALR. Parental Petition for Reinstatement as Guardian for Child. 70 A.L.R.7th Art. 5 (2022).

28-65-222. Parental appointment of temporary guardian.

RESEARCH REFERENCES

ALR. Parental Petition for Reinstatement as Guardian for Child. 70 A.L.R.7th Art. 5 (2022).

CHAPTER 68

UNIFORM POWER OF ATTORNEY ACT

SUBCHAPTER 2 — AUTHORITY

28-68-201. Authority that requires specific grant — Grant of general authority.

CASE NOTES

Arbitration Agreement.

Because a decedent's power of attorney could reasonably be interpreted to have granted the daughter authority to handle only three specific matters on behalf of the decedent, i.e., banking, real property, and personal possessions, and not arbitration, the daughter did not have authority to

bind the decedent to the arbitration agreement with the rehabilitation and care center. Thus, the circuit court properly denied the center's motion to compel arbitration of the wrongful death action. *Progressive Eldercare Services-Drew, Inc. v. Everett*, 2021 Ark. App. 353, 635 S.W.3d 502 (2021).

28-68-212. Claims and litigation.

CASE NOTES

Arbitration Agreement.

Because a decedent's power of attorney could reasonably be interpreted to have granted the daughter authority to handle only three specific matters on behalf of the decedent, i.e., banking, real property, and personal possessions, and not arbitration, the daughter did not have authority to

bind the decedent to the arbitration agreement with the rehabilitation and care center. Thus, the circuit court properly denied the center's motion to compel arbitration of the wrongful death action. *Progressive Eldercare Services-Drew, Inc. v. Everett*, 2021 Ark. App. 353, 635 S.W.3d 502 (2021).

CHAPTER 69

FIDUCIARIES GENERALLY

SUBCHAPTER 3 — INCORPORATION OF POWERS BY REFERENCE

28-69-304. Powers which may be incorporated.

CASE NOTES

Authority.

Circuit court did not err in finding that a trustee had authority to execute a general indemnity agreement that made two trusts liable for any obligations of the sureties on surety bonds issued to a company in which the trustee had an ownership interest because both trusts granted

the trustee all the rights, powers, and privileges that would be possessed by an absolute, single owner over the trust property; that would include the power to use property to guarantee the debts of another person or his own business venture. *Robert A. Hall Revocable Trust v. U.S. Specialty Ins. Co.*, 2021 Ark. App. 268 (2021).

CHAPTER 72

PARTICULAR TRUSTS

SUBCHAPTER 1 — MISSING PERSONS

28-72-101. Jurisdiction of circuit courts.

RESEARCH REFERENCES

ALR. Uniform Trust Code. 68 A.L.R.7th
Art. 1 (2022).

CHAPTER 73

ARKANSAS TRUST CODE

SUBCHAPTER 1 — GENERAL PROVISIONS AND DEFINITIONS

RESEARCH REFERENCES

ALR. Uniform Trust Code. 68 A.L.R.7th
Art. 1 (2022).

28-73-105. Default and mandatory rules.

RESEARCH REFERENCES

ALR. Uniform Trust Code. 68 A.L.R.7th
Art. 1 (2022).

28-73-106. Common law of trusts — Principles of equity.

RESEARCH REFERENCES

ALR. Uniform Trust Code. 68 A.L.R.7th
Art. 1 (2022).

SUBCHAPTER 6 — REVOCABLE TRUSTS

28-73-602. Revocation or amendment of revocable trust.

CASE NOTES

Intent.

Decedent's action of deeding a house and farm to the grandson did not clearly and convincingly manifest an intent to modify or revoke a revocable trust where the decedent was granted authority to sell

or dispose of the property in her capacity as co-trustee, not individually, and she had deeded the property in her personal name; the circuit court properly interpreted and applied subdivision (c)(2)(B) of this section and properly voided the deeds

to the grandson. *Leavell v. Gentry*, 2021 Ark. App. 412, 636 S.W.3d 794 (2021).

SUBCHAPTER 7 — OFFICE OF TRUSTEE

28-73-703. Cotrustees.

RESEARCH REFERENCES

ALR. Uniform Trust Code. 68 A.L.R.7th Art. 1 (2022).

28-73-709. Reimbursement of expenses.

CASE NOTES

Attorney's Fees.

Circuit court did not err in awarding the trustee attorney's fees and costs expended in litigating a trust administration case because any of the fees awarded in the

trustee's defense of the case fell within the ambit of this section, as incurred in the administration of the trust. *Hamilton v. Bank of the Ozarks*, 2022 Ark. App. 254, 647 S.W.3d 120 (2022).

SUBCHAPTER 8 — DUTIES AND POWERS OF TRUSTEE

28-73-813. Duty to inform and report.

RESEARCH REFERENCES

ALR. Uniform Trust Code. 68 A.L.R.7th Art. 1 (2022).

28-73-815. General powers of trustee.

RESEARCH REFERENCES

ALR. Uniform Trust Code. 68 A.L.R.7th Art. 1 (2022).

28-73-816. Specific powers of trustee.

RESEARCH REFERENCES

ALR. Uniform Trust Code. 68 A.L.R.7th Art. 1 (2022).

SUBCHAPTER 9 — UNIFORM PRUDENT INVESTOR ACT**28-73-901. Prudent investor rule.****RESEARCH REFERENCES**

ALR. Uniform Prudent Investor Act. 61
A.L.R.7th Art. 1 (2021).

28-73-902. Standard of care — Portfolio strategy — Risk and return objectives.**RESEARCH REFERENCES**

ALR. Uniform Prudent Investor Act. 61
A.L.R.7th Art. 1 (2021).

28-73-903. Diversification.**RESEARCH REFERENCES**

ALR. Uniform Prudent Investor Act. 61
A.L.R.7th Art. 1 (2021).

28-73-904. Duties at inception of trusteeship.**RESEARCH REFERENCES**

ALR. Uniform Prudent Investor Act. 61
A.L.R.7th Art. 1 (2021).

**SUBCHAPTER 10 — LIABILITY OF TRUSTEES AND RIGHTS OF PERSONS
DEALING WITH TRUSTEES****28-73-1005. Limitation of action against trustee.****RESEARCH REFERENCES**

ALR. Uniform Trust Code. 68 A.L.R.7th
Art. 1 (2022).

CASE NOTES**Applicability.**

Statute of limitations provision in this section was not applicable because the Uniform Trust Code applies only to ex-

press trusts, not to resulting and constructive trusts. *Patterson v. Bennett*, 2022 Ark. App. 75 (2022).

CHAPTER 74**UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE
PROCEEDINGS JURISDICTION ACT****SUBCHAPTER 2 — JURISDICTION****28-74-203. Jurisdiction.****CASE NOTES****Appointment of Guardian.**

Arkansas court did not err in dismissing brother's petition to be appointed the guardian of appellee, his elderly sister, because a Connecticut probate court issued an order in 2018 establishing a Connecticut attorney as the person with the authority to make decisions on the sister's behalf that affected her personal care and the administration of her property, so

Connecticut had exclusive and continuing jurisdiction over that guardianship matter pursuant to the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, § 28-74-101 et seq.; and the brother did not assert that Arkansas was the sister's home state or that "special jurisdiction" existed in the case. *Pierce v. Whitehill*, 2021 Ark. App. 395 (2021).

28-74-205. Exclusive and continuing jurisdiction.**CASE NOTES****Appointment of Guardian.**

Arkansas court did not err in dismissing brother's petition to be appointed the guardian of appellee, his elderly sister, because a Connecticut probate court issued an order in 2018 establishing a Connecticut attorney as the person with the authority to make decisions on the sister's behalf that affected her personal care and the administration of her property, so

Connecticut had exclusive and continuing jurisdiction over that guardianship matter pursuant to the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, § 28-74-101 et seq.; and the brother did not assert that Arkansas was the sister's home state or that "special jurisdiction" existed in the case. *Pierce v. Whitehill*, 2021 Ark. App. 395 (2021).

28-74-209. Proceedings in more than one state.**CASE NOTES****Appointment of Guardian.**

Arkansas court did not err in dismissing brother's petition to be appointed the guardian of appellee, his elderly sister, because a Connecticut probate court issued an order in 2018 establishing a Connecticut attorney as the person with the authority to make decisions on the sister's behalf that affected her personal care and the administration of her property, so

Connecticut had exclusive and continuing jurisdiction over that guardianship matter pursuant to the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, § 28-74-101 et seq.; and the brother did not assert that Arkansas was the sister's home state or that "special jurisdiction" existed in the case. *Pierce v. Whitehill*, 2021 Ark. App. 395 (2021).

CONSTITUTION OF THE STATE OF ARKANSAS OF 1874

ARTICLE 2

DECLARATION OF RIGHTS

§ 2. Freedom and independence.

CASE NOTES

Right of Privacy.

There is a rational basis for the law prohibiting a school employee from having sex with a minor student enrolled in the school district that employs him or her; consequently, § 5-14-124(a)(1)(D) did not

violate defendant's right to privacy or intimate association under the Arkansas or United States Constitutions. *Johnson v. State*, 2021 Ark. App. 256, 626 S.W.3d 451 (2021).

§ 3. Equality before the law.

RESEARCH REFERENCES

ALR. Selection or Transfer of Venue as Unconstitutional Discrimination as to Jury Pool Under Batson. 53 A.L.R. Fed. 3d Art. 6 (2020).

Claims of Discrimination on Basis of Race, Sex, Age, or Disability Under Patient Protection and Affordable Care Act. 58 A.L.R. Fed. 3d Art. 2 (2021).

CASE NOTES

School Employees.

Rational-basis review of defendant's equal protection claim was called for because § 5-14-124(a)(1)(D), which prohibits a school employee from having sex with a minor student enrolled in the school district that employs the employee, does not implicate a fundamental right or discriminate against a suspect class. *Johnson v. State*, 2021 Ark. App. 256, 626 S.W.3d 451 (2021).

Defendant failed to prove that § 5-14-124(a)(1)(D) is not rationally related to achieving any legitimate governmental objective under any reasonably conceivable fact situation; the statutory classification of a school employee rationally advances the government's legitimate interest in having a protected learning environment for students, and therefore defendant did not demonstrate an equal protection violation. *Johnson v. State*,

2021 Ark. App. 256, 626 S.W.3d 451 (2021).

Law's classification is rationally related to prevention of sexual relationships between employees and children; a legitimate purpose for § 5-14-124(a)(1)(D) is protecting minors from sex with adult employees of the school or school district they attend. The law's classification of school employees is rationally related to providing a protected learning environment for students. A minor's status as a student is what implicates the governmental interest, so a minor's legal capacity to consent is not determinative on whether the law is rational. *Johnson v. State*, 2021 Ark. App. 256, 626 S.W.3d 451 (2021).

State does not have to show exploitation under § 5-14-124(a)(1), which is a rational line to achieve the governmental purpose sought of a protected environment

for minor children in schools, but the State must prove exploitation of adult students under § 5-14-124(a)(2). The statutory classification is clear enough

and precise enough to pass constitutional scrutiny under a rational-basis standard of review. *Johnson v. State*, 2021 Ark. App. 256, 626 S.W.3d 451 (2021).

§ 4. Right of assembly and of petition.

RESEARCH REFERENCES

ALR. Validity Under First Amendment of State Disclosure or Reporting Requirements of Political Contributions or Expen-

ditures by Private Individuals or Entities. 51 A.L.R.7th Art. 1 (2020).

§ 6. Liberty of the press and of speech — Libel.

RESEARCH REFERENCES

ALR. Validity Under First Amendment of State Disclosure or Reporting Requirements of Political Contributions or Expenditures by Private Individuals or Entities. 51 A.L.R.7th Art. 1 (2020).

First Amendment Retaliation Against Member of Press. Securities Cases. 62

A.L.R. Fed. 3d Art. 3 (2021).

Free Speech Rights of Noncitizens. 64 A.L.R. Fed. 3d Art. 2 (2021).

Application of First Amendment Speech Protection to Governmental Entities: Government-Speech Doctrine. 67 A.L.R. Fed. 3d Art. 4 (2022).

§ 7. Jury trial — Right to — Waiver — Civil cases — Nine jurors agreeing.

RESEARCH REFERENCES

ALR. Seventh Amendment Right to Trial by Jury — Supreme Court Decisions. 57 A.L.R. Fed. 3d Art. 2 (2021).

§ 8. Criminal charges — Self-incrimination — Due process — Double jeopardy — Bail.

RESEARCH REFERENCES

ALR. Criminal Defendant's Race or Skin Color as Factor in Determination of Whether Circumstances of Witness's Identification of Defendant in Photographic Array Shown by Police to Witness Were Impermissibly Suggestive as Matter of State Constitutional Law. 54 A.L.R.7th Art. 6 (2020).

Criminal Defendant's Hair Color or Style as Factor in Determination of Whether Circumstances of Witness' Identification of Defendant in Photographic Array Shown by Police to Witness Were Impermissibly Suggestive as Matter of State Constitutional Law. 56 A.L.R.7th

Art. 2 (2020).

Criminal Defendant's Facial Hair as Factor in Determination of Whether Circumstances of Witness's Identification of Defendant in Photographic Array Shown by Police to Witness Were Impermissibly Suggestive as Matter of State Constitutional Law. 56 A.L.R.7th Art. 6 (2020).

Criminal Defendant's Facial Features or Expression, Tattoos, Scars, or Injuries, Glasses, Jewelry, or Gold Teeth as Factor in Determination of Whether Circumstances of Witness's Identification of Defendant in Photographic Array Shown by

Police to Witness Were Impermissibly Suggestive as Matter of State Constitutional Law. 58 A.L.R.7th Art. 1 (2021).

Criminal Defendant's Age, Height, Weight, Build, or Body Type as Factor in Determination of Whether Circumstances of Witness's Identification of Defendant in Photographic Array Shown by Police to Witness Were Impermissibly Suggestive as Matter of State Constitutional Law. 59 A.L.R.7th Art. 3 (2021).

Clothing Worn by Criminal Defendant in Photograph in Array Shown by Police to Witness as Factor in Determination of Whether Circumstances of Witness's Identification of Defendant, as Person in Photograph, Were Impermissibly Suggestive as Matter of State Constitutional Law. 60 A.L.R.7th Art. 4 (2021).

Police Statements as Factor in Determination of Whether Circumstances of Witness's Identification of Criminal Defendant, as Person in Photograph Within Array, Were Impermissibly Suggestive as Matter of State Constitutional Law. 61 A.L.R.7th Art. 5 (2021).

Mug Shot and Other Distinctive Characteristics of Criminal Defendant's Photograph as Factor in Determination of Whether Circumstances of Witness's Identification of Defendant in Photo-

graphic Array Shown by Police to Witness Were Impermissibly Suggestive as Matter of State Constitutional Law. 62 A.L.R.7th Art. 1 (2021).

Treatment or Manner of Display of Photographs of Defendant, or Presence of Defendant in Prior Physical Show-up, Physical Lineup, or Surveillance Video, or Police Officer's Nonverbal Cues as Factor in Determination of Whether Circumstances of Witness's Identification of Defendant in Photographic Array Shown by Police to Witness Were Impermissibly Suggestive as Matter of State Constitutional Law. 63 A.L.R.7th Art. 2 (2021).

Validity Under Federal Constitution, of Regulations, Rules, or Statutes Allowing Drug Testing of Students. 57 A.L.R. Fed. 3d Art. 6 (2021).

Testing Potential Public Employee for Controlled Substances or Illegal Drugs as Violation of Federal Constitutional Rights or Civil Rights. 58 A.L.R. Fed. 3d Art. 3 (2021).

Testing Public Employee for Controlled Substances (Illegal Drugs) as a Violation of Federal Constitutional Rights or Civil Rights. 61 A.L.R. Fed. 3d Art. 2 (2021).

Use of Spit Hood by Law Enforcement as Violation of Constitutional Rights. 63 A.L.R. Fed. 3d Art. 4 (2021).

§ 9. Excessive bail or punishment prohibited — Witnesses — Detention.

RESEARCH REFERENCES

ALR. Eighth Amendment Challenges to Laws that Limit, Penalize, or Ban Camping or Sleeping in Public known as Anti-Homeless or Anti-Vagrancy Ordinances. 62 A.L.R. Fed. 3d Art. 4 (2021).

Eighth Amendment Challenges to Juvenile Solitary Confinement. 62 A.L.R. Fed. 3d Art. 6 (2021).

Use of Spit Hood by Law Enforcement as Violation of Constitutional Rights. 63 A.L.R. Fed. 3d Art. 4 (2021).

What Acts Constitute Excessive Force in

Violation of the U.S. Constitution When Used Against Demonstrators or Protesters. 64 A.L.R. Fed. 3d Art. 5 (2021).

Review of Excessiveness or Reasonableness of Sentences in Cases Involving Federal Terrorism Enhancement, U.S.S.G. § 3A1.4. 66 A.L.R. Fed. 3d Art. 6 (2021).

COVID-19 Related Litigation: Claims of Deliberate Indifference to Inmates' Eighth Amendment Rights — Federal Appellate Cases. 67 A.L.R. Fed. 3d Art. 10 (2022).

§ 10. Right of accused enumerated — Change of venue.

RESEARCH REFERENCES

ALR. Criminal Defendant's Race or Skin Color as Factor in Determination of

Whether Circumstances of Witness's Identification of Defendant in Photo-

graphic Array Shown by Police to Witness Were Impermissibly Suggestive as Matter of State Constitutional Law. 54 A.L.R.7th Art. 6 (2020).

Criminal Defendant's Hair Color or Style as Factor in Determination of Whether Circumstances of Witness' Identification of Defendant in Photographic Array Shown by Police to Witness Were Impermissibly Suggestive as Matter of State Constitutional Law. 56 A.L.R.7th Art. 2 (2020).

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Criminal Defendant's Facial Features or Expression, Tattoos, Scars, or Injuries, Glasses, Jewelry, or Gold Teeth as Factor in Determination of Whether Circumstances of Witness's Identification of Defendant in Photographic Array Shown by Police to Witness Were Impermissibly Suggestive as Matter of State Constitutional Law. 58 A.L.R.7th Art. 1 (2021).

Right of Indigent Defendant in State Criminal Case to Mitigation Expert. 58 A.L.R.7th Art. 6 (2021).

Criminal Defendant's Age, Height, Weight, Build, or Body Type as Factor in Determination of Whether Circumstances of Witness's Identification of Defendant in Photographic Array Shown by Police to Witness Were Impermissibly Suggestive as Matter of State Constitutional Law. 59 A.L.R.7th Art. 3 (2021).

Clothing Worn by Criminal Defendant in Photograph in Array Shown by Police to Witness as Factor in Determination of

Whether Circumstances of Witness's Identification of Defendant, as Person in Photograph, Were Impermissibly Suggestive as Matter of State Constitutional Law. 60 A.L.R.7th Art. 4 (2021).

Conditions Interfering with Accused's View of Witness as Violation of Right of Confrontation. 61 A.L.R.7th Art. 2 (2021).

Police Statements as Factor in Determination of Whether Circumstances of Witness's Identification of Criminal Defendant, as Person in Photograph Within Array, Were Impermissibly Suggestive as Matter of State Constitutional Law. 61 A.L.R.7th Art. 5 (2021).

Mug Shot and Other Distinctive Characteristics of Criminal Defendant's Photograph as Factor in Determination of Whether Circumstances of Witness's Identification of Defendant in Photographic Array Shown by Police to Witness Were Impermissibly Suggestive as Matter of State Constitutional Law. 62 A.L.R.7th Art. 1 (2021).

Treatment or Manner of Display of Photographs of Defendant, or Presence of Defendant in Prior Physical Show-up, Physical Lineup, or Surveillance Video, or Police Officer's Nonverbal Cues as Factor in Determination of Whether Circumstances of Witness's Identification of Defendant in Photographic Array Shown by Police to Witness Were Impermissibly Suggestive as Matter of State Constitutional Law. 63 A.L.R.7th Art. 2 (2021).

Ineffective Assistance of Counsel in Relation to Mitigation Expert. 71 A.L.R.7th Art. 1 (2022).

When Defendant's Sixth Amendment Speedy Trial Rights (U.S. Const. Amend. VI) Attach If Indictment Is Initially Filed Under Seal. 68 A.L.R. Fed. 3d Art. 9 (2022).

CASE NOTES

ANALYSIS

Personal Presence.

—Waiver.

Right to Counsel.

—Self-Representation.

Personal Presence.

—Waiver.

Removing defendant from the trial due to his behavior was upheld. *Roberson v. State*, 2021 Ark. App. 264 (2021).

Right to Counsel.

Circuit court did not abuse its discretion in finding that defendant was not indigent because defendant never claimed that he was indigent, told the circuit court he earned sufficient income when it inquired, and was provided plenty of time by the circuit court to arrange counsel; not only did defendant not ask the circuit court to appoint counsel, but also he never stated that he could not afford to hire counsel. *Rice v. State*, 2022 Ark. App. 32 (2022).

—Self-Representation.

Circuit court did not violate defendant's constitutional right to represent himself because due to his behavior, the circuit court was never able to conduct the proper

inquiry as to whether defendant made a knowing and intelligent waiver of his right to counsel. *Roberson v. State*, 2021 Ark. App. 264 (2021).

§ 15. Unreasonable searches and seizures.

RESEARCH REFERENCES

ALR. What Constitutes Reasonable Time to Wait Under Knock-and-Announce Rule in Context of Search or Arrest Within Private Premises — State Cases. 71 A.L.R.7th Art. 2 (2022).

When Good Faith or Reasonableness Is Necessary for Defense of Qualified Immunity in Action for Damages Against Law Enforcement Official Under 42 U.S.C. § 1983 for Violation of Right to Privacy Under Fourth Amendment. 51 A.L.R. Fed. 3d Art. 1 (2020).

Permissibility Under Fourth Amendment of Detention of Motorist by Police, Following Lawful Traffic Stop, to Investigate, by Means Other Than Canine Sniff, Other Matters and Admissibility of Evidence Gained Thereby — Federal Cases *Post Rodriguez v. U.S.* 53 A.L.R. Fed. 3d Art. 8 (2020).

Validity Under Federal Constitution, of Regulations, Rules, or Statutes Allowing Drug Testing of Students. 57 A.L.R. Fed. 3d Art. 6 (2021).

Testing Potential Public Employee for Controlled Substances or Illegal Drugs as Violation of Federal Constitutional Rights or Civil Rights. 58 A.L.R. Fed. 3d Art. 3 (2021).

Testing Public Employee for Controlled Substances (Illegal Drugs) as a Violation of Federal Constitutional Rights or Civil Rights. 61 A.L.R. Fed. 3d Art. 2 (2021).

Civil Remedies Under 42 U.S.C. § 1983 Against Law Enforcement Officers Executing Search Warrant for Failing to Knock and Announce. 64 A.L.R. Fed. 3d Art. 3 (2021).

State or Municipal Liability for Invasion of Constitutional Right to Informational Privacy Under 42 U.S.C. § 1983. 65 A.L.R. Fed. 3d Art. 1 (2021).

What Constitutes Reasonable Time to Wait Under Knock-and-Announce Rule in Context of Search or Arrest Within Private Premises — Federal Cases *Post Hudson*. 68 A.L.R. Fed. 3d Art. 1 (2022).

CASE NOTES

Reasonableness.

Circuit court properly granted summary judgment to a city and a police officer and dismissed defendant's complaint for violation of his constitutional right to be free from unreasonable search and seizure because no genuine issue of material fact existed as to whether defendant had a right to be "free from arrest"

while in a private marina. A federal court had already found that the officer had probable cause to arrest, and defendant did not assert that the officer's actions were unreasonable, thereby rendering his arguments about the location of the arrest and the officer's jurisdiction immaterial. *Durden v. City of Van Buren*, 2021 Ark. App. 357, 635 S.W.3d 342 (2021).

§ 21. Life, liberty and property — Banishment prohibited.

CASE NOTES

ANALYSIS

Right to Parent.
Right to Privacy.

Right to Parent.

In a dispute over a school district's mask mandate, the Supreme Court of Ar-

kansas reversed the circuit court's decision granting the parents' motion for a temporary restraining order (TRO) because the school district had the authority to promulgate its policy which did not violate the parents' fundamental right to care for their children. Section 6-13-620(11) authorizes the school district to provide a general, suitable, and efficient system of free public schools, and § 6-15-1005(a)(1) provides that schools must have safe and functional facilities; therefore, the parents were not entitled to a TRO, because they failed to demonstrate a likelihood of success on the merits of their

challenge to the mask mandate. *Bentonville Sch. Dist. v. Sitton*, 2022 Ark. 80, 643 S.W.3d 763 (2022).

Right to Privacy.

There is a rational basis for the law prohibiting a school employee from having sex with a minor student enrolled in the school district that employs him or her; consequently, § 5-14-124(a)(1)(D) did not violate defendant's right to privacy or intimate association under the Arkansas or United States Constitutions. *Johnson v. State*, 2021 Ark. App. 256, 626 S.W.3d 451 (2021).

§ 22. Property rights — Taking without just compensation prohibited.

RESEARCH REFERENCES

ALR. Eminent Domain: Energy-Related Projects as Public Use Under State Law — 21st Century Cases. 69 A.L.R.7th Art. 5 (2022).

§ 29. Enumeration of rights of people not exclusive of other rights — Protection against encroachment.

CASE NOTES

Right to Parent.

In a dispute over a school district's mask mandate, the Supreme Court of Arkansas reversed the circuit court's decision granting the parents' motion for a temporary restraining order (TRO) because the school district had the authority to promulgate its policy which did not violate the parents' fundamental right to care for their children. Section 6-13-620(11) authorizes the school district to

provide a general, suitable, and efficient system of free public schools, and § 6-15-1005(a)(1) provides that schools must have safe and functional facilities; therefore, the parents were not entitled to a TRO, because they failed to demonstrate a likelihood of success on the merits of their challenge to the mask mandate. *Bentonville Sch. Dist. v. Sitton*, 2022 Ark. 80, 643 S.W.3d 763 (2022).

ARTICLE 3

FRANCHISE AND ELECTIONS

§ 1. Qualifications of electors.

CASE NOTES

Cited: *Johnson v. Wright*, 2022 Ark. 57, 640 S.W.3d 401 (2022).

ARTICLE 4**DEPARTMENTS****§ 2. Separation of departments.****CASE NOTES****ANALYSIS**

Legislative Power.

—Validity of Acts.

Legislative Power.**—Validity of Acts.**

While there were both substantive and procedural aspects to Ark. Code Ann. § 27-34-106(a) of the Child Passenger Protection Act, on the whole it was a legislative pronouncement that failing to use a child safety seat was not a negligent

act and therefore could not be used to compare the injured plaintiff's fault to the fault of the defendant; accordingly, it was more substantive than procedural, and did not constitute a violation of the separation of powers doctrine under Ark. Const., Art. IV, § 2 and Ark. Const. Amend. 80, § 3. *Edwards v. Thomas*, 2021 Ark. 140, 625 S.W.3d 226 (2021) (answering certified question from federal district court).

ARTICLE 5**LEGISLATIVE DEPARTMENT****§ 20. State not made defendant.****CASE NOTES****ANALYSIS**

Improper Actions.

—Exceptions Not Applicable.

Improper Actions.**—Exceptions Not Applicable.**

Circuit court erred in denying the State's motion to dismiss an employee's complaint alleging he was terminated in violation of public policy and without a name-clearing hearing because the employee failed to plead sufficient facts that asserted an exception to the sovereign

immunity doctrine; none of the facts indicated that the Department of Finance and Administration acted illegally, unconstitutionally, or ultra vires. The employee, a hearing officer for the driver control division, had been terminated for accepting Victim Impact Panel completion certificates during the COVID pandemic for panels attended online, rather than in-person. *Ark. Dep't of Fin. & Admin. v. Lewis*, 2021 Ark. 213, 633 S.W.3d 767 (2021).

ARTICLE 9**EXEMPTION****§ 4. Rural homestead — Acreage — Value.****CASE NOTES****Nature of Property.**

Debtor's real property was rural in nature for purposes of the homestead exemp-

tion under Ark. Const., Art. 9, § 4 as it was a 2.5-acre wooded tract of land in a pastoral environment of which significant

parts were undeveloped, timbered, steep in places, lying within a floodplain, and bordered by a creek and farm animals. In re Shefte, 632 B.R. 772 (Bankr. W.D. Ark. 2021).

ARTICLE 19

MISCELLANEOUS PROVISIONS

§ 3. Elected or appointed officers — Qualifications of an elector required.

CASE NOTES

Residence.

Circuit court correctly determined that the appointment of one of the municipal advertising and promotion commission commissioners under § 26-75-605(a)(3), who was a resident of the county but not of the city, was not prohibited under Ark. Const., Art. 19, § 3; there is no statute

requiring that a commissioner had to be a resident of the city, the commissioner was appointed to the position (not elected nor appointed to fill a vacancy in an elected office), and the position was authorized not only by statute but also by a municipal ordinance. *Johnson v. Wright*, 2022 Ark. 57, 640 S.W.3d 401 (2022).

AMENDMENTS TO THE CONSTITUTION OF ARKANSAS OF 1874

AMEND. 21. CRIMINAL PROSECUTIONS — SALARIES OF PROSECUTORS.

§ 1. Prosecution by indictment or information.

CASE NOTES

Constitutionality.

There is no constitutional right to be indicted by a grand jury, and Ark. Const. Amend. 21, § 1, which permits indictment

by information, is constitutional. *Wells v. State*, 2021 Ark. 195, 632 S.W.3d 738 (2021).

AMEND. 35. WILD LIFE — CONSERVATION — ARKANSAS STATE GAME AND FISH COMMISSION.

§ 8. Nepotism prohibited — Powers of arrest — Funds — Use — Purposes — Game Protection Fund — Audit of ac- counts — Resident hunting and fishing licenses — Powers of commission.

CASE NOTES

ANALYSIS

Rules and Regulations.

—Constitutionality.

Rules and Regulations.

—**Constitutionality.**

Administrative regulation banning barbed hooks for fishing within a special regulation area that was allegedly “smaller than a complete zone” did not

conflict with this constitutional provision. A previous decision held that the size of a zone is not specified in Amendment 35; and plaintiff’s focus only on the small size of the regulatory area without addressing the Arkansas State Fish and Game Commission’s justification for the restrictions was fatal to plaintiff’s argument. *Peveto v. State*, 2021 Ark. 225, 634 S.W.3d 776 (2021).

AMEND. 80. [REVISION OF THE JUDICIAL ARTICLE] (MUL- TIPLE PROVISIONS OF CONST., ART. 7 REPEALED; CONST. AMENDS. 58, 64, AND 77, § 1, REPEALED; AND SECTIONS ADDED).

§ 3. Rules of pleading, practice, and procedure.

CASE NOTES

Province of the Supreme Court.

While there were both substantive and procedural aspects to Ark. Code Ann.

§ 27-34-106(a) of the Child Passenger Protection Act, on the whole it was a legislative pronouncement that failing to

use a child safety seat was not a negligent act and therefore could not be used to compare the injured plaintiff's fault to the fault of the defendant; accordingly, it was more substantive than procedural, and did not constitute a violation of the sepa-

ration of powers doctrine under Ark. Const., Art. IV, § 2 and Ark. Const. Amend. 80, § 3. *Edwards v. Thomas*, 2021 Ark. 140, 625 S.W.3d 226 (2021) (answering certified question from federal district court).

§ 10. Jurisdiction, venue, circuits, districts and number of judges.

CASE NOTES

Authority of Judge.

Where three defendants were jointly tried and convicted for their participation in a criminal episode, the Arkansas Division of Correction wrongfully calculated the parole eligibility on their 15-year sentence enhancement for committing a

felony with a firearm, and the State conceded there was error; therefore, defendants were entitled to mandamus relief under § 16-115-102 and Ark. Const. Amend. 80. *Perry v. Payne*, 2022 Ark. 112 (2022).

AMEND. 100. THE ARKANSAS CASINO GAMING AMENDMENT OF 2018.

§ 2. Definitions.

CASE NOTES

Casino Applicant.

Circuit court erred by granting summary judgment for the casino applicant after finding that an administrative code provision and Ark. Code Ann. § 23-117-101(b) (requiring that letters of support must be from the county judge holding office at the time the application is submitted) imposed an additional requirement on applicants not contained in Ark. Const. Amend. 100; the plain language of Ark. Const. Amend. 100, § 4(n), in using

the definite article “the” preceding “county judge”, indicates a specific, definite judge, the current county judge — not a former county judge or retired county judge because those are not “the” county judge. Thus, the administrative code provision and statute were consistent with Amendment 100 and did not impose an additional requirement. *Cherokee Bus., LLC v. Gulfside Casino P’ship*, 2021 Ark. 183, 632 S.W.3d 284 (2021).

§ 3. Authorizing Casinos and Casino Gaming.

CASE NOTES

Statutes.

Circuit court erred by granting summary judgment for the casino applicant after finding that an administrative code provision and Ark. Code Ann. § 23-117-101(b) (requiring that letters of support must be from the county judge holding office at the time the application is submitted) imposed an additional requirement on applicants not contained in Ark.

Const. Amend. 100; the plain language of Ark. Const. Amend. 100, § 4(n), in using the definite article “the” preceding “county judge”, indicates a specific, definite judge, the current county judge — not a former county judge or retired county judge because those are not “the” county judge. Thus, the administrative code provision and statute were consistent with Amendment 100 and did not impose an addi-

tional requirement. *Cherokee Bus., LLC v. Gulfside Casino P'ship*, 2021 Ark. 183, 632 S.W.3d 284 (2021).

§ 4. Licensing of Casinos and Casino Gaming.

CASE NOTES

Letters of Support.

Circuit court erred by granting summary judgment for the casino applicant after finding that an administrative code provision and Ark. Code Ann. § 23-117-101(b) (requiring that letters of support must be from the county judge holding office at the time the application is submitted) imposed an additional requirement on applicants not contained in Ark. Const. Amend. 100; the plain language of Ark. Const. Amend. 100, § 4(n), in using

the definite article “the” preceding “county judge”, indicates a specific, definite judge, the current county judge — not a former county judge or retired county judge because those are not “the” county judge. Thus, the administrative code provision and statute were consistent with Amendment 100 and did not impose an additional requirement. *Cherokee Bus., LLC v. Gulfside Casino P'ship*, 2021 Ark. 183, 632 S.W.3d 284 (2021).

ACTS DISPOSITION TABLE

This table supplements the Acts Disposition Tables for Tables Volumes A, B, and C in the 2021 supplement for sessions through the 2021 Regular Session, the 2021 First Extraordinary Session, the 2021 Second Extraordinary Session, the 2022 Fiscal Session, and the 2022 Third Extraordinary Session.

The abbreviation "R" followed by an act year and number in the column headed "A.C.A." indicates that that act has repealed the act and/or act section identified in the "Page" or "Act No." and "Section" columns.

For an explanation of other abbreviations, and for other information about the tables, please consult page 255 of the bound volume.

ACTS OF 1844-1845			Act No.	Section	A.C.A.
Page	Section	A.C.A.	135	105-108	R. 2021, No. 475, § 15
46	1	R. 2021, No. 475, § 15		113-115	R. 2021, No. 475, § 15
ACTS OF 1852-1853				117, 118	R. 2021, No. 475, § 15
Page	Section	A.C.A.		121-123	R. 2021, No. 475, § 15
161	15	R. 2021, No. 584, § 1			
	20	R. 2021, No. 584, § 1			
ACTS OF 1868-1869 (Adjourned Session)			Act No.	Section	A.C.A.
Act No.	Section	A.C.A.	9	1	R. 2021, No. 475, § 8
1	3	R. 2021, No. 475, § 8			
ACTS OF 1873			ACTS OF 1874 (Special Session)		
Act No.	Section	A.C.A.	Page	Section	A.C.A.
135	2, 3	R. 2021, No. 475, § 15	167	35	R. 2021, No. 475, § 15
	8-10	R. 2021, No. 475, § 15	187	1	R. 2021, No. 475, § 15
	14	R. 2021, No. 475, § 15			
	18-41	R. 2021, No. 475, § 15			
	44-87	R. 2021, No. 475, § 15			
	102	R. 2021, No. 475, § 15			
ACTS OF 1883			ACTS OF 1887		
			Act No.	Section	A.C.A.
			114	127	R. 2021, No. 1065, § 1
			Act No.	Section	A.C.A.
			90	4	R. 2021, No. 584, § 1

ACTS OF 1889

Act No.	Section	A.C.A.	Act No.	Section	A.C.A.
66	3	R. 2021, No. 475, § 15	60	18	16-17-219; R. in part 2021, No. 475, § 15
				22	16-17-220; R. in part 2021, No. 475, § 15

ACTS OF 1893

Act No.	Section	A.C.A.	Act No.	Section	A.C.A.
71	1	R. 2021, No. 475, § 15		23	16-17-221; R. in part 2021, No. 475, § 15
171	1-3	R. 2021, No. 475, § 15	132	3	R. 2021, No. 18, § 8

ACTS OF 1895

Act No.	Section	A.C.A.	Act No.	Section	A.C.A.
80	4	R. 2021, No. 475, § 17		5	R. 2021, No. 18, § 8
				7	R. 2021, No. 18, § 11

ACTS OF 1899

Act No.	Section	A.C.A.	Act No.	Section	A.C.A.
29	1, 2	R. 2021, No. 475, § 15	40	1-3	R. 2021, No. 452, § 1
			46	6, 7	R. 2021, No. 18, § 17

ACTS OF 1907

Act No.	Section	A.C.A.	Act No.	Section	A.C.A.
190	6	R. 2021, No. 66, § 3		10-12	R. 2021, No. 18, § 20
				17	R. 2021, No. 18, § 20

ACTS OF 1921

Act No.	Section	A.C.A.	Act No.	Section	A.C.A.
450	1	R. 2021, No. 339, §§ 2, 3	282	1	R. 2021, No. 475, § 15

ACTS OF 1923

Act No.	Section	A.C.A.	Act No.	Section	A.C.A.
229	1, 2	R. 2021, No. 467, § 12	324	2-4	R. 2021, No. 452, § 1

ACTS OF 1925

Act No.	Section	A.C.A.	Act No.	Section	A.C.A.
156	1	R. 2021, No. 1065, § 1			

ACTS OF 1927

Act No.	Section	A.C.A.	Act No.	Section	A.C.A.
60	17	16-17-217; R. in part 2021, No. 475, § 15	128	6	R. 2021, No. 18, § 17
			173	5	R. 2021, No. 18, § 19
			333	1	R. 2021, No. 475, § 15

ACTS OF 1929

ACTS OF 1931

ACTS OF 1937

ACTS OF 1941

ACTS OF 1943

Act No.	Section	A.C.A.	Act No.	Section	A.C.A.
1	2	6-43-101, 6-65-201, 6-65-301, 6-67-102, 25-17-201; R. in part 2021, No. 18, § 17	334	1-3	R. 2021, No. 700, § 5
4		6-43-101, 6-65-201, 6-65-301, 6-67-102, 25-17-204; R. in part 2021, No. 18, § 17	ACTS OF 1961 (2nd Extraordinary Session)		
5		6-43-101, 6-65-201, 6-65-301, 6-67-102, 25-17-203; R. in part 2021, No. 18, § 17	8	5	20-21-213-20-21- 215; 20-21-217; R. in part 2021, No. 268, § 6
6		6-43-101, 6-65-201, 6-65-301, 6-67-102, 25-17-204, 25-17- 207, 25-17-210; R. in part 2021, No. 18, § 17	ACTS OF 1963		
7		6-65-103, 6-65-201, 6-65-301, 6-67-102, 25-17-209; R. in part 2021, No. 18, § 17	227	13-15	R. 2021, No. 576, §§ 4, 5
			243	1	R. 2021, No. 700, § 5

ACTS OF 1949

Act No.	Section	A.C.A.	Act No.	Section	A.C.A.
20	2, 3	R. 2021, No. 700, § 4	234	1	R. 2021, No. 452, § 1
224	1	R. 2021, No. 475, § 15	ACTS OF 1973		

ACTS OF 1959

Act No.	Section	A.C.A.	Act No.	Section	A.C.A.
16	1-3	R. 2021, No. 18, § 20	317	1-5	R. 2021, No. 700, § 4
71	1	R. 2021, No. 475, § 15		8	R. 2021, No. 700, § 3
				9-11	R. 2021, No. 700, § 4
			876	2	19-4-102; R. in part 2021, No. 671, § 1

ACTS OF 1961

Act No.	Section	A.C.A.
134	1	R. 2021, No. 475, § 8

ACTS OF 1975

Act No.	Section	A.C.A.	Act No.	Section	A.C.A.
			496	8, 9	R. 2021, No. 18, § 15
388	5	23-112-301-23-112-305; 23-112-307; 23-112-310; 23-112-311; 23-112-402-23-112-404; R. in part 1995, No. 568, § 12; R. in part 2021, No. 504, § 8	515	1-3	R. 2021, No. 433, § 1
			569	1	16-80-102; R. in part 2021, No. 475, § 2
			665	1	R. 2021, No. 475, § 9
394	1-3	R. 2021, No. 545, § 19		2	R. 2021, No. 475, § 10
454	14	R. 2021, No. 367, § 22	1032	3	23-112-301-23-112-305; 23-112-307; 23-112-310; 23-112-311; 23-112-403; 23-112-404; R. in part 1995, No. 568, § 12; R. in part 2021, No. 504, § 8
545	1, 2	R. 2021, No. 700, § 4			23-112-301-23-112-305; 23-112-307; 23-112-310; 23-112-311; 23-112-403; 23-112-404; R. in part 1995, No. 568, § 12; R. in part 2021, No. 504, § 8

ACTS OF 1979

Act No.	Section	A.C.A.	Act No.	Section	A.C.A.
169	1-3	R. 2021, No. 715, § 2	1058	3	23-112-301-23-112-305; 23-112-307; 23-112-310; 23-112-311; 23-112-403; 23-112-404; R. in part 1995, No. 568, § 12; R. in part 2021, No. 504, § 8
208	7	R. 2021, No. 475, § 10			

ACTS OF 1981

Act No.	Section	A.C.A.
364	4	24-10-501; 24-10-502; 24-10-504; R. in part 2021, No. 72, § 2
770	19	R. 2021, No. 700, § 7

ACTS OF 1987

Act No.	Section	A.C.A.
554	1	R. 2021, No. 700, § 5
768	3	17-31-403 (17-38-403); R. in part 2021, No. 647, § 17

ACTS OF 1983

Act No.	Section	A.C.A.	Act No.	Section	A.C.A.
19	6	20-21-213-20-21-215; 20-21-217; R. in part 2021, No. 268, § 6	803	9	R. 2021, No. 483, § 14
746	1, 2	R. 2021, No. 700, § 5	829	1	R. 2021, No. 433, § 1

ACTS OF 1989

Act No.	Section	A.C.A.	Act No.	Section	A.C.A.
			63	1	R. 2021, No. 433, § 1
288	1-4	R. 2021, No. 497, § 5	98	3	R. 2021, No. 79, § 1
496	6	6-65-220; R. in part 2021, No. 18, § 14			

Act No.	Section	A.C.A.	Act No.	Section	A.C.A.
682	1	R. in part 1999, No. 1508, § 7(h); R. in part 1999, No. 1514, § 19; R. in part 2021, No. 470, §§ 3, 4	652	8	R. 2021, No. 367, § 9
			1003	101-104	R. 2021, No. 1041, § 1
				106	R. 2021, No. 1041, § 1

ACTS OF 1989 (1st Extraordinary Session)

Act No.	Section	A.C.A.
192	19	R. 2021, No. 700, § 3

ACTS OF 1989 (3rd Extraordinary Session)

Act No.	Section	A.C.A.
55	1	R. in part 2003, No. 1185, § 129; R. in part 2021, No. 475, § 15

ACTS OF 1991

Act No.	Section	A.C.A.	Act No.	Section	A.C.A.
148	1	R. 2021, No. 433, § 1	1001-1008		R. 2021, No. 1041, § 1
183	1	R. 2021, No. 66, § 3	1101-1103		R. 2021, No. 1041, § 1
368	6	R. 2021, No. 927, § 14	1301-1315		R. 2021, No. 1041, § 1
412	4, 5	R. 2021, No. 647, § 17	1316		17-12-702n; R. in part 2021, No. 1041, § 1
617	1	6-54-101, 6-54-104; R. in part 2021, No. 19, § 1	1099	1	R. 2021, No. 433, § 1
731	1	R. 2021, No. 433, § 1	1174	18	R. 2021, No. 700, § 1
861	6	R. 2021, No. 157, § 1	1242	10	R. in part 1999, No. 1508, § 7(h); R. in part 1999, No. 1514, § 19
1105	18	R. 2021, No. 700, § 7			
1244	29	6-53-501, 6-53- 503-6-53-505; R. in part 2021, No. 545, § 23			

ACTS OF 1993

Act No.	Section	A.C.A.
268	1-9	R. 2021, No. 501, § 1
618	11	R. 2021, No. 483, § 14

ACTS OF 1995

Act No.	Section	A.C.A.
112	1	R. 2021, No. 501, § 1
236	27	R. 2021, No. 700, § 1
354	1	R. 2021, No. 66, § 3
549	3	R. 2021, No. 475, § 8

Act No.	Section	A.C.A.	Act No.	Section	A.C.A.
568	9	R. 2021, No. 504, § 8	1119	1	R. 2021, No. 501, § 1
603	5	R. 2021, No. 19, § 1	1280	2	R. 2021, No. 1004, § 11
1158	8	R. 1999, No. 240, § 7	1323	40	R. 2021, No. 545, § 19
1184	15	R. in part 1999, No. 1508, § 7(h); R. in part 1999, No. 1514, § 19	1508	4	R. 1999, No. 1514, § 19
	16	R. 2021, No. 470, § 3	1528	1, 2	R. 2021, No. 1041, § 1
1206	2, 3	R. 2021, No. 1004, § 11		4	R. 2021, No. 1041, § 1
				8	R. 2021, No. 1041, § 1
			1529	3-9	R. 2021, No. 715, § 4

ACTS OF 1997

Act No.	Section	A.C.A.
250	4	R. 2021, No. 501, § 1
	37	R. 2021, No. 18, § 17
	51	R. 1999, No. 1508, § 7(h)
338	1	R. 2021, No. 1041, § 1
479	1	R. 2021, No. 1041, § 1
	6	R. 2021, No. 1041, § 1
	10, 11	R. 2021, No. 1041, § 1
577	1	R. 2021, No. 501, § 1
633	1	R. 2021, No. 1004, § 11
881	1	R. 2021, No. 700, § 7
958	1	R. 2021, No. 367, § 22
1354	11	R. 1999, No. 1514, § 19

ACTS OF 1999

Act No.	Section	A.C.A.
99	1	R. 2021, No. 700, § 5
	2	R. 2021, No. 700, § 7
881	7	R. 2021, No. 367, § 9

ACTS OF 2001

Act No.	Section	A.C.A.
90	2	R. 2021, No. 18, § 8
	6	R. 2021, No. 18, § 14
	7	R. 2021, No. 18, § 15
358	1	R. 2021, No. 700, § 7
414	1	R. 2021, No. 900, § 4
419	1	26-56-701; R. in part 2021, No. 483, § 15
	2	26-56-702; R. in part 2021, No. 483, § 15
	3	26-56-703; R. in part 2021, No. 483, § 15
	4	26-56-704; R. in part 2021, No. 483, § 15
	5	26-56-705; R. in part 2021, No. 483, § 15
	6	26-56-706; R. in part 2021, No. 483, § 15
	7	26-56-707; R. in part 2021, No. 483, § 15

ACTS DISPOSITION TABLE

Act No.	Section	A.C.A.	Act No.	Section	A.C.A.
419	8	26-56-708; R. in part 2021, No. 483, § 15	1785	1	R. 2021, No. 544, § 10

619	1	R. 2021, No. 700, § 4
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829	1	R. 2021, No. 1041, § 1
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830	1	R. 2021, No. 1041, § 1
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1053	7	R. 2021, No. 504, § 8
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1083	1	R. 2021, No. 671, § 1
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1395	2	R. 2021, No. 1041, § 1
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1397	3-7	R. 2021, No. 715, § 4
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1702	1	R. 2021, No. 367, § 22
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ACTS OF 2003

Act No.	Section	A.C.A.
266	1	R. 2021, No. 900, § 4

673	1	R. 2021, No. 475, § 14
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965	1	R. 2021, No. 1041, § 1
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1061	1	15-20-1101-15-20-1109; 15-20-1111-15-20-1114; R. in part 2021, No. 501, § 3
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1288	28	R. 2021, No. 700, § 7
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1446	1	R. 2021, No. 1004, § 11
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1463	12	R. 2021, No. 79, § 2
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1473	37, 38	R. 2021, No. 715, § 4
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1727	12	R. 2021, No. 825, § 1
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ACTS OF 2003 (1st Extraordinary Session)

Act No.	Section	A.C.A.
38	3	R. 2021, No. 483, § 5

ACTS OF 2005

Act No.	Section	A.C.A.
63	1	R. 2021, No. 483, § 5

496	4-8	R. 2021, No. 497, § 5
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897	1, 2	R. 2021, No. 900, § 4
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898	6	R. 2021, No. 715, § 4
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1411	3-8	R. 2021, No. 715, § 4
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1994	392	R. 2021, No. 18, § 17
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2289	1	R. 2021, No. 805, § 1
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ACTS OF 2007

Act No.	Section	A.C.A.
15	3	R. 2021, No. 1041, § 1

52	1	R. 2021, No. 433, § 1
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62	1	R. 2021, No. 339, § 3
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182	1	26-63-101-26-63-107; 26-63-201-26-63-205; 26-63-301-26-63-303; 26-63-401-26-63-405; R. in part 2021, No. 146, § 1
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192	2	R. 2021, No. 715, § 4
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Act No.	Section	A.C.A.	Act No.	Section	A.C.A.
230	1-9	R. 2021, No. 900, § 4	595	8	R. 2021, No. 18, § 17
282	1	R. 2021, No. 715, § 4	605	4	6-85-201-6-85-208; 6-85-210; 6-85- 212-6-85-214; 6-85-216; 6-85-217; 6-85-219; 6-85-220; R. in part 2010, Nos. 265 and 294, § 17; R. in part 2013, No. 1173, § 11; R. in part 2021, No. 81, § 1; R. in part 2021, No. 636, § 1
395	2	R. 2021, No. 544, §§ 35, 36			
430	3	20-17-1028; R. in part 2021, No. 343, § 2			
638	32-35	R. 2021, No. 1041, § 1			
646	5, 6	R. 2021, No. 1041, § 1			
663	41	R. 2021, No. 825, § 1	606	4	6-85-201-6-85-208; 6-85-210; 6-85- 212-6-85-214; 6-85-216; 6-85-217; 6-85-219; 6-85-220; R. in part 2010, Nos. 265 and 294, § 17; R. in part 2013, No. 1173, § 11; R. in part 2021, No. 81, § 1; R. in part 2021, No. 636, § 1
847	2	R. 2021, No. 544, § 27			
1009	2	R. 2021, No. 1004, § 11			

**ACTS OF 2008 (1st
Extraordinary Session)**

Act No.	Section	A.C.A.
2	1, 2	R. 2021, No. 544, § 36

ACTS OF 2009

Act No.	Section	A.C.A.	Act No.	Section	A.C.A.
207	1	12-64-846; R. in part 2021, No. 185, § 3	655	60	R. 2021, No. 483, § 14
242	1	R. 2021, No. 544, § 35	748	40	R. 2021, No. 433, § 1
	2	R. 2021, No. 544, § 36	814	5, 6	R. 2021, No. 1041, § 1
365	1	R. 2021, No. 329, § 1	952	5	R. 2021, No. 343, § 2
408	5	R. 2021, No. 1041, § 1	1212	1	R. 2021, No. 900, § 4
488	1	R. 2021, No. 475, § 4	1242	4	24-6-501; 24-6-502; 24-6-504-24-6-508; R. in part 2021, No. 280, § 2
	2	R. 2021, No. 475, § 6	1405	1	R. 2021, No. 81, § 1

ACTS OF 2010

Act No.	Section	A.C.A.	Act No.	Section	A.C.A.
			596	1-3	R. 2021, No. 900, § 4
265	8	R. 2021, No. 636, § 1	597	1, 2	R. 2021, No. 900, § 4
294	8	R. 2021, No. 636, § 1	1043	10	23-112-1001-23- 112-1007; 23-112- 1009-23-112-1023; R. in part 2021, No. 504, § 17

ACTS OF 2011

Act No.	Section	A.C.A.	Act No.	Section	A.C.A.
116	1	R. 2021, No. 700, § 5	1138	13	R. 2021, No. 544, § 10
131	1	R. 2021, No. 700, § 5		31, 32	R. 2021, No. 544, § 27
	2, 3	R. 2021, No. 700, § 7	1164	3	R. 2021, No. 146, § 1
207	9	R. 2021, No. 636, § 1			
624	1	R. 2021, No. 544, § 36			
701	1	R. 2021, No. 544, § 35			
	2	R. 2021, No. 544, § 36			
1132	9	R. 2021, No. 475, § 14			
1173	2	R. 2021, No. 636, § 5			

**ACTS OF 2013 (1st
Extraordinary Session)**

Act No.	Section	A.C.A.
3	2	21-5-401; 21-5- 403-21-5-408; 21- 5-410-21-5-412; 21-5-414-21-5-418; R. in part 2021, No. 1004, § 11
6	2	21-5-401; 21-5- 403-21-5-408; 21- 5-410-21-5-412; 21-5-414-21-5-418; R. in part 2021, No. 1004, § 11

ACTS OF 2013

Act No.	Section	A.C.A.
8	1	R. 2021, No. 135, § 1
40	6	R. 2021, No. 72, § 2
146	1	6-4-301, 6-4-302, 6-4-307; R. in part 2021, No. 1031, §§ 7, 8
514	1	R. 2021, No. 1031, § 9
553	1	22-6-119; R. in part 2021, No. 585, § 1

**ACTS OF 2014 (2nd
Extraordinary Session)**

Act No.	Section	A.C.A.
3	1	R. 2021, No. 1004, § 11
6	1	R. 2021, No. 1004, § 11

ACTS OF 2015

Act No.	Section	A.C.A.
218	25	23-115-101-23-115-103; 23-115-201; 23-115-202R; 23-115-203R; 23-115-204-23-115-209; 23-115-210R; 23-115-211; 23-115-212; 23-115-301-23-115-308; 23-115-401-23-115-409; 23-115-411; 23-115-501-23-115-504; 23-115-601-23-115-612; 23-115-701; 23-115-801-23-115-803; 23-115-901-23-115-904; 23-115-1001-23-115-1006; 23-115-1101; R. in part 2015, No. 1262, § 1; R. in part 2015, No. 1258, § 38; R. in part 2021, No. 636, § 5
848	1	R. 2021, No. 135, § 1
865	11	R. 2021, No. 79, § 2
895	6	R. 2021, No. 471, § 4
1003	39	R. 2021, No. 185, § 3
1100	2	R. 2021, No. 1031, § 7
	55	R. 2021, No. 805, § 1
1157	2	R. 2021, No. 900, § 4
1198	6	R. 2021, No. 497, § 5
1258	21	R. 2021, No. 636, § 5
1278	1	R. 2021, No. 481, § 3
1283	1	R. 2021, No. 671, § 1

ACTS OF 2016 (3rd Extraordinary Session)

Act No.	Section	A.C.A.
2	26	R. 2021, No. 471, § 4
3	26	R. 2021, No. 471, § 4

ACTS OF 2017

Act No.	Section	A.C.A.
248	1	R. 2021, No. 135, § 1
423	5	R. 2021, No. 471, § 3
565	26-28	R. 2021, No. 900, § 4
667	5	R. 2021, No. 516, § 2
703	1	R. 2021, No. 83, § 3
723	1	16-17-901; 16-17-902; 16-17-903R; 16-17-904; 16-17-905R; 16-17-906R; 16-17-907; 16-17-908-16-17-911R
		16-17-913R; 16-17-914-16-17-916; 16-17-917-16-17-921R; 16-17-922; 16-17-923R; 16-17-924R; 16-17-925; 16-17-926; 16-17-927R; 16-17-928; 16-17-929-16-17-932R; 16-17-933; 16-17-934R;

ACTS DISPOSITION TABLE

Act No.	Section	A.C.A.	Act No.	Section	A.C.A.
		16-17-935;	315	349	R. 2021, No. 545,
		16-17-936R;			§ 19
		16-17-937R;		386	R. 2021, No. 18, §
		16-17-938;			11
		16-17-939;		387, 388	R. 2021, No. 18, §
		16-17-940R;			15
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